H.R. 218 (The Law Enforcement Officers Safety Act) and S. 1132 (The Law Enforcement Safety Act Improvements Act of 2010) and 2013 Amendment By National Defense Authorization Act (NDAA) for Fiscal Year 2013, Public Law 112-239 (H.R. 4310), §1089

SUMMARY AND OVERVIEW
February, 2015

Note: This Bulletin is written to help explain the federal law allowing active and former law enforcement officers who meet the law's requirements to carry a concealed firearm nationwide. FDLE frequently receives inquiries about this law, but FDLE is not authorized to provide binding legal advice or opinions about this law to third parties. The content in this "Summary and Overview" does not constitute legal advice. The interpretations of the law contained herein may differ from those held by others who review it. Active law enforcement officers and retired or separated law enforcement officers dealing with how and whether they can carry a firearm under federal law should seek advice from their agency legal advisor or personal attorney. Although written with Florida officers primarily in mind, this overview of the law may also be of assistance to persons not residing in Florida. The previous FDLE Office of General Counsel Memorandum regarding this federal law is now out-of-date and should not be relied upon. No organization, union, or private entity is authorized to provide a final or authoritative interpretation of this law. When and how the law will be applied will be determined by the courts as they consider situations in which persons have asserted a right to carry a concealed firearm under authority of the federal law.

Special thanks to retired FDLE General Counsel Michael Ramage for his time and expertise in creating the original work on which this document is based.

"The Law Enforcement Officers Safety Act" (often referred to as **H.R. 218**) is a federal law, first enacted in 2004, that allowed two classes of persons— the "qualified law enforcement officer" and the "qualified retired law enforcement officer" -- to carry a concealed firearm in any jurisdiction in the United States, regardless of any state or local law to the contrary, with certain exceptions. H.R. 218 became effective when signed by President Bush, as Public Law 108-277, which is found at 18 U.S.C. Sections 926B and 926C. The law was revised in 2010 through **S. 1132**, **"The Law Enforcement Safety Act Improvements Act of 2010,"** signed into law by President Obama on October 12, 2010, as Public Law 111-272. The law was amended in January, 2013, primarily to clarify its application to military personnel with police powers. The 2010 and 2013 changes are discussed hereafter.

The main revisions in 2010 specifically included Amtrak Police Department officers, executive branch law enforcement officers and officers of the Federal Reserve within the scope of the law. The provision related to "qualified retired law enforcement officers" was revised. In addition the scope of the law's application to former officers was expanded. The word "retired" was replaced by "separated from service." (This is a significant change, in that officers may have "separated from service" without actually retiring from their employing agency.) The law reduced the period of

service from the original “aggregate of 15 years or more” to “an aggregate of 10 years or more.” This change reduced by 5 years the total years one must have served as a law enforcement officer (as defined by the federal law) in order to qualify to carry a concealed firearm as one who has “separated from service.” The revision also clarified how firearms qualification could be obtained and revised language related to mental health firearms disabilities.

The federal law is in two sections in 18 United States Code (USC). Section 926B relates to active officers. Section 926C relates to officers who have retired or separated from service in good standing.

Active Officers:

18 USC 926B relates to active “qualified law enforcement officers.” The law allows such officers who meet the law’s criteria to carry a concealed firearm in all 50 states and federal territories.
This privilege generally overrides state laws prohibiting carrying concealed firearms, subject to limitations stated in subsection (b) of Section 926B.

The phrase, “qualified law enforcement officer” is specifically defined with six factors that have to be met in order for a person to meet the definition. See subsection (c) of Section 926B.

Subsection (d) requires the officer to carry photographic identification as specified. Subsections (e) and (f) do not pertain to basic qualifications.

For “qualified law enforcement officers” there are several important things to remember. First, the federal law does NOT supersede state laws that permit private entities to restrict who may possess firearms on private property nor does the law supersede the ability of a state to restrict possession of firearms on state or local property, installations, buildings, bases, or parks. The privilege to carry a concealed firearm provided by the federal law is not completely unrestricted.

Second, to be a “qualified law enforcement officer,” one must meet ALL six of the criteria found in subsection (c). The evaluation of these criteria will be made at the time someone is encountered carrying a concealed firearm and called upon to justify that his or her possession is legal. The law is a type of “affirmative defense” against being charged with a crime for carrying a concealed firearm, and as such, it is the burden of the person carrying the firearm to show he or she meets the law’s criteria.

Since 2010 disqualifying disciplinary actions (that would keep one from enjoying the privilege to carry a firearm concealed) are limited to those that “could result in suspension or loss of police powers.” Thus not all disciplinary actions result in loss of the privilege to carry a firearm under the federal law.

Whether a person is under the influence (factor 5) will be determined at the time the officer is encountered carrying the concealed firearm, as will be the “not-prohibited-by-federal-law” incapacity factor (factor 6) and a determination of whether the officer is under a disqualifying disciplinary sanction (factor 3). A patrol officer will be able to suspect intoxication based on behavior observed. The federal incapacity factor may require post-encounter inquiry to resolve. Disciplinary status will also likely be determined post-encounter by the prosecutor in deciding whether the federal law covers the person under scrutiny.

Since most decisions of whether a person is entitled to carry a concealed firearm under the federal law will be made by patrol officers encountering a person carrying the firearm as that officer decides whether a person is, or is not, violating the law, it is incumbent upon the person carrying a firearm to have proper documentation to establish, as much as possible, satisfaction of the federal criteria. Since under subsection (a) the officer must carry photographic identification issued by the

employing agency, that identification should clearly state one's status as provided in factor (1), including having the statutory power of arrest. If your agency identification does not include such a statement, consideration should probably be given to revising the identification. Presentation of official credentials containing verification of firearms authorization and arrest powers will likely satisfy most patrol officers that the firearm is being legally carried.

FDLE regularly receives inquiries from correctional or other officers as to whether they can be considered qualified law enforcement officers under the federal law. While FDLE cannot provide a binding legal opinion for non-FDLE personnel, a key factor is always whether those officers have "statutory powers of arrest." If they do not, and they do not fit the criteria under the law, they cannot be a "qualified law enforcement officer." Having the "statutory powers of arrest" may be a key factor in determining whether a reserve or auxiliary officer qualifies to carry a firearm under the federal law.

If, for example, the "statutory powers of arrest" are active only when a reserve or auxiliary officer is on-duty, and/or in the company of, or supervised by, a full-time law enforcement officer, a prosecutor might maintain that the auxiliary or reserve officer cannot meet this criteria when off-duty or when not being supervised or in the company of a full-time officer.

On the other hand, many argue that the federal law is met by having <u>any</u> power of arrest when on duty, and that even if an employing agency or state law limits such power to "on-duty" status, the federal law supersedes those restrictions. In dealing with a case involving a U.S. Coast Guardsman, a trial court found the federal law was met even though the Guardsman violated USCG rules in carrying his concealed firearm. (See discussion below.)

Subsection (2) requires the officer to be "authorized by the agency to carry a firearm." One's credentials should reflect this authorization if possible. A state law might allow a generic class of officers to carry a firearm if otherwise authorized by those officers' employing agency. The federal law requires the officer to be authorized by the agency, so if no such authorization is made, the officer may not qualify under the federal law. However, by analogy, the same argument mentioned above (if authorized for some of the time, the federal law applies even if the agency does not authorize all of the time) could be raised.

The issue is complex. Some employers may authorize carrying a firearm in the officer's home locale, but may not authorize carrying a firearm in other locations or out of the officer's home state. Other employers may allow carrying of firearms out of the home area or state, but only if specifically authorized by an agency representative. Other employers may prohibit their officers from carrying firearms off-duty. Each situation is evaluated on its own circumstances. Ultimately a reserve or auxiliary officer must be comfortable that by applying his or her agency's policies and state law, compliance with the federal criteria can be demonstrated.

Each officer should be prepared to establish his or her authorization to carry a firearm <u>in the locale in which he or she has been encountered carrying the firearm.</u> Each officer should be prepared to prove compliance with the federal law's criteria, and may even need to have an agency employer point-of-contact handy in case there is a question about whether the officer is in fact authorized to carry a firearm, or it becomes necessary for the employer to verify the person is not under discipline or a mental disqualification.

The federal law is an "all or nothing" proposition. Failure to meet even one of the factors means the officer is not empowered to carry a concealed firearm under authority of the federal law.

Demonstrating that an officer has met the agency's firearms qualifications under subsection (4) can be done by carrying proof of one's most recent qualification on the range. Some agencies or state authorities issue dated cards documenting range qualification. If your agency does not give you

written proof, you should have an agency point-of-contact available to confirm this factor if challenged.

Active officers should not overlook the requirement in (d) to carry the "identification required by this subsection" when relying upon the federal law as the basis for carrying a concealed firearm.

Active or former officers are not granted special enforcement authority under this federal law!

Being able to carry a concealed firearm under the federal law does NOT empower active officers with arrest powers by reason of being armed outside of his or her jurisdiction! Unless otherwise empowered with arrest powers, any arrest action an active or former officer takes will be a "citizen's arrest." Any discharge of an active or former officer's firearm will likely be considered use of force by a citizen, not an officer. Some states impose a "duty to retreat" before deadly force can be utilized, while others do not. Active and former officers should become familiar with the firearm laws in destinations outside of their jurisdiction.

2013 Changes to the Law: In 2013, the federal law was again amended by the National Defense Authorization Act (NDAA) for Fiscal Year 2013, effective January 2, 2013, after President Obama signed Public Law 112-239 (H.R. 4310). Section 1089 of the NDAA contained language which made it clear that military police officers and civilian police officers employed by the U.S. Government met the definitions in the original law. (There had been uncertainty in this regard over the years.)

The definitions of "qualified active" and "qualified retired" law enforcement officer include the term "police officers" and expanded the definition of the powers of arrest requirement to include those who have or had the authority to "apprehend" suspects under the Uniform Code of Military Justice, making it clear that such officers are within the scope of the federal law.

As of the date of this Bulletin, February, 2015, the federal law related to active officers can be summarized as follows:

Qualified law enforcement officers ("Active" officers):

In 18 USC § 926B(c), "qualified law enforcement officer" is defined as 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.

Additionally, 18 USC § 926B requires that the individual must carry 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.

Separated Officers:

"Qualified retired law enforcement officers" ("separated") provision summarized (Emphasis added):

In 18 USC § 926C(c), "qualified retired law enforcement officer" is defined as an individual who:

1. separated from service in good standing 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. before such separation, served as a law enforcement officer for an aggregate of 10 years or more; or 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. 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 photographic identification; or 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 photographic identification;
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.

Additionally, the individual must carry either:

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**

b. 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 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 one 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 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 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.

Observations:

The law since 2010 was expanded to include officers who separated from service in addition to those who retired. This broadens the law's application, but the section (926C) still refers to "qualified retired officers" in its title.

Retired and separated officers have an additional factor to meet that is not specified in the section related to active officers: They must not be under a mental condition that causes their former employer not to issue them photo identification. Congress apparently decided this would be the best way to verify mental condition at the time the officer retired or separated. The law's factor relates to that time of retirement or separation. Patrol officers who encounter persons in possession of concealed firearms claiming a right to do so under the federal law, but who are exhibiting signs of a mental condition or infirmity may want to consider whether the person could be taken into custody as may be authorized under state law for evaluation to determine whether the person is a danger to self or others and then allow the prosecutor to determine whether the federal law has been met with regard to a defense to a concealed firearms charge.

The federal law does not require former employers to open their firing ranges to retirees or those who have separated from employment. Those seeking to qualify on the range to meet the "has qualified in the last 12 months" factor may have to seek out an alternative range to receive proof of such qualification.

The law applied to members of the U.S. Coast Guard:

Courts have held that Coast Guard boarding officers are qualified under the law. In *People against Benjamin L. Booth, Jr.*, Indictment No. 2007-940 (2007), a county court in Orange County, New York, dismissed a criminal charge against Booth, an off-duty member of the Coast Guard, who had been arrested for carrying a loaded handgun in a vehicle. The court held that Booth was authorized to carry a firearm while acting as a Coast Guard boarding officer.

The case involved an issue whether the federal law would apply if Booth was violating Coast Guard rules. The court indicated, "Although the proof at the hearing indicates that the defendant engaged in a violation of rules, regulations and policies of the United States Coast Guard by possessing a handgun for which he had no license, these violations do not act to lessen the scope of LEOSA as it is applied in this instance." In other words, Booth's violation of Coast Guard rules did not lessen his authority under the federal law to carry a concealed firearm. This case may be advocated by those who argue reserve or auxiliary officers are allowed by federal law to carry concealed firearms regardless of whether they are on-duty or accompanied by a full time officer.

The Coast Guard has issued a formal directive to advise Coast Guard personnel of which Coast Guard personnel are considered to be covered by LEOSA, and the limitations of such coverage. See: http://www.uscg.mil/announcements/alcoast/549-10_alcoast.txt

Florida's Firearms Certification Process:

As authorized by Florida law, the Criminal Justice Standards and Training Commission has approved a statewide minimum firearms proficiency qualification course that every certified active officer must complete. Those standards have been in effect since July 1, 2006. While the state standards require active officers to qualify only once every two years, retired and separated from service officers must qualify yearly as required by the federal law in order to enjoy its privilege to carry a concealed firearm nationwide. Retirees and separated officers must successfully complete the same minimum standards as applied to active Florida law enforcement officers. No Florida agency employing active officers can utilize firearms qualifications that are below the statewide firearms standards, but agencies can enhance their standards beyond the state's minimum if they choose to do so.

All firearms range proficiency tests must be administered in Florida by a CJSTC-certified firearms instructor. These instructors are the only persons having access to the CJSTC-approved firearms proficiency verification card that proves a person has successfully completed the firearms regimen and on what date the completion occurred. The requirements for Florida's proficiency course are listed below (from CJSTC Form 86A, incorporated by reference in Rule 11B-27.00212(14), Florida Administrative Code):

Stage 1 HIP POSITION FROM HOLSTER	**Stage 2** TWO-HAND HIGH POINT FROM READY GUN
Using single target from the 1 to 3-yard line shoot: ▪ 2 rounds in 4 seconds ▪ Repeat one time for a total of 4 rounds	Using single target from the 3-yard line shoot: ▪ 2 rounds in 1 second ▪ Repeat two times for a total of 6 rounds
Stage 3 TWO-HAND HIGH POINT FROM HOLSTER	**Stage 4** Two-hand high point from holster
Using single target from the 7-yard line shoot: ▪ 2 rounds in 4 seconds from the holster ▪ 2 rounds in 4 seconds from ready gun position ▪ 2 rounds in 4 seconds from ready gun position	Using single target from the 7-yard line shoot: ▪ 3 rounds in 5 seconds. ▪ Repeat one time for a total of 6 rounds
Stage 5 TWO-HAND HIGH POINT FROM HOLSTER	**Stage 6** TWO-HAND HIGH POINT FROM HOLSTER
Using single target from the 7-yard line shoot: ▪ 12 rounds in 45 seconds. (Mandatory Reload)	Using single target from the 15-yard line shoot: ▪ 6 rounds in 30 seconds.

Passing Score. A passing score is a minimum score of 80%, which is 32 of 40 rounds in the scoring area.

Scoring. The scoring shall be any hit that is inside or touches the exterior scoring line of the 4 and 5 zone of the B-21E target. The course of fire shall begin at Stage 1 and follow the order sequence through Stage 6.

A CJSTC authorized card confirming successful completion of the course on the date noted is issued by the CJSTC-approved firearms instructor. The card specifies that it is intended to note only that on the date indicated, the firearms proficiency course was successfully completed. It specifically notes that it is not intended to verify one's status as an active or retired/separated officer. Accordingly, the card (CJSTC-600) must be presented in conjunction with other credentials to establish that one falls under the federal law's privilege to carry a concealed firearm.

If a card is lost by a retiree/separated officer, no replacement can be issued. The retiree/separated officer must return to a range and re-qualify. Upon successful completion of the firearms proficiency course, a new card with the new completion date is issued.

Common Scenarios Related To Applying The Law:

Out-of-state retiree/separated officer now residing in Florida:

Sergeant Felicia Friday retired from the NYPD in good standing and has an aggregate of 10 or more years' experience as a law enforcement officer. Friday has moved to a retirement community in South Florida. Friday has 2 options to qualify with her firearm on a yearly basis: (1) She can return to NYPD and successfully complete the NYPD firearms qualification course of fire for active law enforcement personnel; or (2) She can go to a range in Florida open to retirees and/or separated officers and successfully complete Florida's statewide minimum firearms qualification standards, under the control and supervision of a Criminal Justice Standards and Training Commission certified firearms instructor. Only CJSTC certified firearms instructors are authorized to issue certification cards, verifying successful completion of the state approved annual firearms qualification course of fire for active law enforcement personnel.

In-state retiree/separated officer who continues to live in Florida:

Officer Bookem Dano separated from the Spanish Moss (Florida) Police Department after 8 years' service as a police officer. Prior to working at Spanish Moss PD, he worked at the Weeping Willows, Florida Police Department for 4 years. Since he has an aggregate of 10 or more years, he can take advantage of the federal law. He has at least two options to meet his firearms qualification:

(1) He can return to the Spanish Moss PD and successfully complete the state approved annual firearms qualification course of fire for active law enforcement personnel, which also will be administered by a CJSTC certified firearms instructor; or (2) He can go to any range administered by a CJSTC certified firearms instructor and complete the state's minimum firearms qualification course. The State of Florida has established a statewide active officer minimum firearms qualifications regimen.

Can he return to Weeping Willows to qualify? In reality, both Weeping Willows and Spanish Moss will require their officers to at least pass the state minimum course, since it is the minimum allowed for active officers. The federal law says Dano must either successfully complete the state-approved annual firearms qualification course of fire for active law enforcement personnel or return to the agency from which he separated. "Separated" appears to refer to the last agency he worked at, but this has not been clarified. Any former department might enhance its requirements above the state minimum, so Dano might have to qualify on a more challenging course of fire at Spanish Moss, than the state's minimum firearms qualification standards. As long as a Florida law enforcement agency's firearms annual qualification course of fire satisfies the state's minimum qualification standards, their firearms qualification requirements may be enhanced. Dano will as a minimum, have to successfully complete the state's minimum firearms qualification course for active officers on an annual basis, even though Florida active law enforcement officers must qualify no less than once every two years.

Florida officer retires/separates and moves to another state:

Version 1: Inspector Gadget retires after 15 years with the Sunshine City, Florida Police Department. He moves to a state out west that has no statewide minimum standards for its officers. Gadget can either return to the Sunshine City Florida Police Department and successfully complete the state approved annual firearms qualification course of fire for active law enforcement personnel, OR since his new state of residence has no statewide standard, he may qualify under any law enforcement agency in that state's active officer firearms qualifications or be qualified under "standards used by a certified firearms instructor that is qualified to conduct a firearms qualification test for active duty officers within that state." (926C (c)(4)).

Version 2: Inspector Gadget retires after 15 years with the Sunshine City, Florida Police Department. He moves to a state that has its own minimum firearms proficiency qualifications for its active officers. The state's minimum course of fire is significantly tougher than Florida's standards. Gadget can either successfully complete the course in his new state of residence and thereby meet this portion of the federal standard, OR he can return annually, to Sunshine City Police and qualify using that agency's active officer proficiency standards. Since Gadget no longer resides in Florida, he does not have the other Florida alternatives that are available to Florida residents.

Retired/Separated officer also has a Florida concealed firearms license.

Officer Sparky Jones is retired after 30 years as a Sheriff's deputy in Florida. He lives in Florida. As he has aged, his shooting ability has slipped a bit and he finds it hard to qualify under Florida's active officer minimum firearms proficiency standards. He asserts he has met the state's standards by shooting well enough to secure his Florida Concealed Firearms license. Is he correct? NO. The firearms qualification standards for a concealed firearms permit are much less demanding than Florida's minimum standards for active law enforcement officers. The standards are defined and are imposed by state law.

The federal law is the sole source of providing federal authority to carry a concealed firearm. The federal law requires those carrying under its authority to qualify either at a former agency employer using that agency's active officer standards, or to qualify under the state of residence's standards for active officers. There is no option to demonstrate compliance with the state's concealed firearms law. Since Florida has statewide standards, these are the only two alternatives. To qualify under the federal law, Sparky can return to his former employer, the Sheriff's Office and successfully complete the active officer firearms proficiency course of fire, or satisfactorily complete the Florida minimum firearms standards for active officers.

The fact that Sparky has a Florida concealed firearms license has no bearing on his status under the federal law.

Independently, if he is having problems with qualifying on the state's minimum course, Sparky can forget about the federal law and can carry a concealed firearm under authority of his CCF license.

There are at least 35 other states that grant reciprocity in one form or another for those having a Florida CCF license. Sparky can carry in two-thirds of the nation by reason of his concealed firearms license. However, unless he successfully completes the Florida standards or his former employer's minimum firearms proficiency standards for active officers (which are at least the minimum state standards) each year, he will NOT be authorized under federal law to carry a concealed firearm. So in the 15 states that do not recognize Florida's CCF license, Sparky could be violating the law by carrying a concealed firearm. On the bright side, in the 35 states, presentation of his CCF license will meet the need to justify why he's carrying a concealed firearm, and Sparky will not have to worry about demonstrating his compliance with the factors in the federal law.

Good today; bad tomorrow:

Deputy Bea N. Badd retired two years ago after 25 years' service in Florida law enforcement. She lives in Florida. Seven months ago she successfully completed the Florida minimum firearms proficiency standards and received her verification card that, combined with her "retired" credentials, meets the identification portion of the federal law. She has 5 months before she must requalify on a firearms course.

She is encountered carrying a concealed firearm in a shopping mall. She presents her credentials and firearms verification card, and claims she's authorized under federal law to carry the gun. The officer "runs" her and finds out she is currently under a domestic relations restraining order (a domestic violence injunction), issued last week. What is Badd's status for carrying a concealed firearm?

She cannot carry under federal law. Federal law prohibits persons under a qualifying domestic relations restraining order from carrying firearms (the criteria are basic, but the order must satisfy them to qualify under federal firearms law). See 18 USC 922(g)(8). One must meet all the requirements of federal law to carry under federal law authority. Since she is prohibited under federal law from possessing a firearm, she is not allowed to be "receiving a firearm" if she went to purchase one. This appears to confirm she is not authorized to be carrying the concealed firearm under the federal law. Badd might be facing a felony charge for carrying a concealed firearm if a prosecutor agrees. The same would be true if Badd had been convicted of a misdemeanor crime of domestic violence or a felony. See 18 USC 922(g)(9).

Just a couple of beers, officer:

Retired officer Bud Wizer just successfully completed his firearms qualification at a nearby range. He is issued his CJSTC-600 verification card, with today's date on it. A few of his fellow retirees were also at the range and they stop at a local pub to celebrate their completion of the firearms course and to rehash stories of valor and bravery. Time passes, and Bud decides it's time to go home. Unfortunately, he has had too many celebratory mugs of beer and is stopped and arrested for D.U.I. He is intoxicated at the time of his arrest. The arresting officer finds his concealed firearm. Bud relates why he was celebrating and claims he's entitled under the federal law to carry his gun. Bud is wrong. One loses the privilege if he or she is "under the influence of alcohol or another intoxicating or hallucinatory drug or substance." In addition to the D.U.I., Bud may be facing criminal charges for carrying a concealed firearm, possession of a firearm by an intoxicated person, or similar crimes.

Same type of firearm:

Retired officer Randy Changer went to the firing range and successfully completed his firearms qualification for a semi-automatic handgun. He is issued a CJSTC-600 verification card that he passed the pistol qualifications. A month later, Randy sells his pistol and returns to his trusty "wheel gun" revolver which he carries concealed. Federal law requires one to qualify on a firearm "of the same type" as what is being carried concealed. Randy is not in compliance with federal law unless his firearms qualification was secured with a revolver.

A semi-automatic pistol is not "of the same type" of weapon as a revolver. To avoid any issue about whether he is under the federal law's privilege Randy should return to the range and qualify with his revolver. If an officer, retiree or separated officer has both revolvers and semi-automatic pistols, he or she should qualify using both types of weapons at the range. (Note: Florida's verification card indicates the "type" or "types" of firearm used to qualify.)

No range nearby:

Some retired or separated officers may find that there are no ranges open to retirees nearby. The federal law does not mandate that ranges be opened to retirees or separated officers. Retirees/separated officers cannot force an agency or other entity to open its range to them. It is the retiree/separated officer's responsibility to find a range that is open to the firearms qualification process. With a little searching, and checking in your local community, a reasonably nearby suitable venue for qualifying can usually be found.

"I offer the same type of qualification as Florida CJSTC instructors."

Florida's standards require that certification be done by Criminal Justice Standards and Training Certified Firearms Instructors. They are the only persons authorized to issue the official range verification card demonstrating your successful completion of the firearms proficiency course of fire. Unless your "certifier" is a CJSTC-certified firearms instructor, you are not meeting Florida's minimum firearms qualification standards. If the person "qualifying you" does not have the official CJSTC verification card, you are not in compliance with the state's minimum standards.

Is it September already?

The "once in the last 12 months" rule will likely be strictly construed by officers and prosecutors in determining whether you fall under the federal law. Don't make the mistake of allowing your firearms certification to lapse by becoming older than 12 months.

Oops, I've misplaced my qualifications card.

In Florida, no replacement cards are issued. If you lose your retiree/separated officer qualification card, you must return to a range, re-qualify, and receive a new card.

I just retired. Can I rely on the federal law and carry my handgun?

A retired or separated from service officer MUST meet the standards in 18 USC 926C to legally carry a concealed firearm. Each such officer must demonstrate that he or she has firearms qualified within the last 12 months. Unless a retiree's or separated officer's credentials include proof of meeting that firearms qualification standard within the last 12 months, that officer cannot carry a concealed firearm until he or she successfully completes the firearms qualification and obtains proof that he or she has completed the firearms qualification within the last 12 months.

Once an officer, always an officer.

The federal law has been described as a "force enhancer" to help protect Americans. While this is a noble purpose, any active or retired/separated officer carrying a concealed firearm under the federal law should use good judgment in deciding to use the firearm.

Officers responding to a call of "shots fired" or "man with a gun" have no idea whether you are a good guy or bad guy when they arrive. Do not assume they will "know" you are a current or former law enforcement officer. When a patrol car rolls up to a robbery call at the restaurant you're at, where you are holding the robber at gun point, YOU are the one with the gun they'll see. They could easily and reasonably assume YOU are the robber. Be cautious in your use of your firearm.

Patrol officers, BOLO for scammers.

What better way to "legitimize" having a gun than for a convicted felon to produce bogus credentials from some small police agency in a remote state. When you encounter persons claiming to be entitled under the federal law to carry a firearm, check credentials carefully and if necessary, have dispatch contact the employing agency to verify credentials and the person presenting them.

Conclusion: As stated at the beginning, this is not legal advice. This was prepared to help active and retired/separated officers better understand the federal law. The interpretations offered herein are not binding legal opinions. The situations and "answers" represent personal interpretations of

how the federal law is to be applied. Each of you is personally responsible for understanding the laws related to carrying firearms. You may need to seek advice from your agency's legal advisor (active officers) or private counsel (retired/separated officers) for guidance related to specific situations and to resolve particular questions.