

# The Law Enforcement Officers Safety Act (LEOSA - HR 218) Three Years Out:

## The Good, The Bad and the Ugly

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Few federal laws have been of as much interest or caused as much confusion and consternation among law enforcement as H.R. 218, now codified at 18 USC 926B & C commonly known as LEOSA (the Law Enforcement Officers Safety Act). The intent of the law was to give current and retired law enforcement the ability to carry a concealed firearm anywhere in the US on police credentials. LEOSA is a prime example of Bismarck's admonition that "those who like laws or sausages should never see them being made." For any law enforcement officer, this is not news, and since I have written before on the structural problems with the law, I will instead focus on where we are on the ground.

### The Good

Currently, eighteen states have some form of recognition of LEOSA, but even saying that is something of a stretch. (See chart on the following page.) Some states implement by statute, some by executive order, and some by regulations or laws that preexisted the federal law but are asserted as covering it. In many states, local sheriffs have taken it upon themselves to issue ID and certifications (or not). Countless stories have come up of off duty, out of jurisdiction, and retired officers defending themselves and others successfully while carrying under the law. Overall, it is working, even if it isn't working where you are.

### The Bad

If only eighteen states have a form of state-level implementation, then thirty-two states don't. While local independent action by sheriffs is a step in the right direction, it is frustrating for individual officers, and at least potentially suspect if the credentials are challenged

in court. Chicago, New York City and other major metropolitan areas have threatened, arrested, tried, but not yet convicted, out of state officers. Some of the states on the chart contain preexisting laws that do not truly or fully implement the federal law (New Jersey is one example) but the states are frankly free to be fools. A challenge to the New Jersey law proved this when the state supreme court upheld the denial of credentials to an otherwise eligible retired officer. The only ways to force compliance are at the ballot box, or in the union contract but not the courthouse.

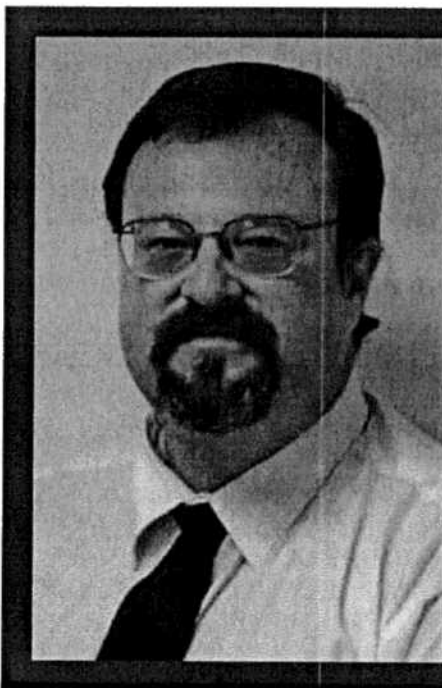
### The Ugly

In addition to misreading the law by legislators and police administrators, there are some interesting twists starting to come about. One case, charging a military reserve officer with possession of an unlicensed handgun, was thrown out by the court based on a broad reading of the federal law, despite strong evidence of a host of other potential illegal-

ities by the defendant. Perhaps a good win in a bad jurisdiction, but not a clean win by any stretch of the imagination. A LEOSA-credentialed retiree moves into a mandatory licensing state and does not get a state license in reliance on federal law. The case I am aware of resolved informally, but is bound to be repeated. Again, perhaps a good thing, but not what was anticipated by anyone. The one theme I hear over and over is, "this is not what I/we anticipated," and I hear it from cops, legislators and administrators alike, both pro and anti-gun.

### Conclusion - What's next?

Efforts to amend and revise LEOSA began in congress immediately after it was signed into law. While nothing has passed to date the effort gains momentum and refinement every year. Each year one or two more states adopt some identifiable implementation system or improve a system in place. Most importantly, every year officers off duty - but under the law - save lives.



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# State Implementation of the Law Enforcement Officers Safety Act of 2004 Public Law 108-277. 18 U.S.C. 926B & C

This list draws from all available electronic sources. Due to a lack of reliable information, many states are not listed here. Many state or local law enforcement agencies may have implemented their own departmental policies without state law or regulation.

**Arizona** ARIZ. REV. STAT. ANN. § 13-3112(x) [www.azleg.state.az.us/ars/13/03112.htm](http://www.azleg.state.az.us/ars/13/03112.htm)

**California** No law or regulation, an Attorney General memorandum leaves decisions on applicability open to interpretation by local agencies [ag.ca.gov/firearms/forms/pdf/leosasummary.pdf](http://ag.ca.gov/firearms/forms/pdf/leosasummary.pdf)

**Connecticut** State Police memorandum [www.ct.gov/dps/cwp/view.asp?a=2153&q=303746](http://www.ct.gov/dps/cwp/view.asp?a=2153&q=303746)

**Florida** FLA. STAT. ANN. § 943.132.  
[www.leg.state.fl.us/Statutes/index.cfm?App\\_mode=Display\\_Statute&Search\\_String=&URL=Ch0943/SEC132.HTM](http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=Ch0943/SEC132.HTM)

**Georgia** No law or regulation, see Georgia Public Safety Training Center notice  
[www.gpstc.georgia.gov/00/article/0,2086,31062192\\_31062972\\_47148904,00.html](http://www.gpstc.georgia.gov/00/article/0,2086,31062192_31062972_47148904,00.html)

**Idaho** IDAHO CODE ANN. § 18-3302H [www3.state.id.us/cgi-bin/newidst?sctid=180330002H.K](http://www3.state.id.us/cgi-bin/newidst?sctid=180330002H.K)

**Illinois** ILL. ADMIN CODE tit. 20, § 1720.210 [www.ilga.gov/commission/jcar/admincode/020/020017200C02100R.html](http://www.ilga.gov/commission/jcar/admincode/020/020017200C02100R.html)

**Kansas** no law or regulation, however see, Kansas Law Enforcement Training Center  
[www.kletc.org/retired/Retired\\_Off\\_pg.htm](http://www.kletc.org/retired/Retired_Off_pg.htm)

**Kentucky** KY. REV. STAT. § 237.138 and [www.kentuckystatepolice.org/conceal.htm](http://www.kentuckystatepolice.org/conceal.htm)

**Massachusetts** 501 MASS. CODE REGS. 13.01

**Maryland** No law or regulation, however an executive order, and this advisory: [www.mdsp.org/downloads/LEOSA\\_2004.pdf](http://www.mdsp.org/downloads/LEOSA_2004.pdf)

**Michigan** no law or regulation, however see discussion at  
[www.michigan.gov/documents/Newsletter\\_August\\_06\\_167577\\_7.pdf](http://www.michigan.gov/documents/Newsletter_August_06_167577_7.pdf)

**Missouri** MO. REV. STAT. § 650.030 [www.moga.state.mo.us/statutes/C600-699/6500000030.HTM](http://www.moga.state.mo.us/statutes/C600-699/6500000030.HTM)

**Montana** no law or regulation, however see: [doj.mt.gov/enforcement/criminaljustice/concealedweapons.asp](http://doj.mt.gov/enforcement/criminaljustice/concealedweapons.asp)

**New Hampshire** N.H. REV. STAT. ANN. § 188-F:26 [law.justia.com/newhampshire/codes/nhtoc-xv/188-f-26.html](http://law.justia.com/newhampshire/codes/nhtoc-xv/188-f-26.html)

**New Jersey** N.J. STAT. ANN. § 2C:39-6(l)

**Nevada** Local implementation, see [http://www.lvmpd.com/permits/firearms\\_hr218.html](http://www.lvmpd.com/permits/firearms_hr218.html)

**Wisconsin** Implementation through the office of the State's Attorney General has begun, however a bill to formalize the process is also pending. It is unclear at this time where the process will go.