

CARRY PERMITS: RETIRED COP

(1) May a retired police officer carry a handgun?

A: Yes. Under N.J.S. 2C:39-6l., law enforcement officers who retired in good standing and who meet other conditions as set forth may apply to the Superintendent of State Police for approval to carry a handgun.

(2) What are the requirements?

A: A retired officer must:

- have retired in good standing
- have been regularly employed and full-time
- be 75 years or younger
- semi-annually qualify in the use of a handgun in accordance with the Attorney General's guidelines, at his own expense
- have been a full-time member of a "qualifying" police department
- and be domiciled in this State

"Qualifying" police departments and law enforcement positions are: the State Police, an interstate police force, a county or municipal police department in New Jersey, a State law enforcement agency, a sheriff, undersheriff or sheriff's officer of a county of New Jersey, a State or county corrections officer, a county park police officer, a county prosecutor's detective or investigator, a federal law enforcement officer — **or**, a qualified retired law enforcement officer as defined in the federal Law Enforcement Officers' Safety Act of 2004.

Note that this permit system is designed for retired New Jersey police officers, and some other retired officers **who are domiciled in New Jersey**. Any retired officer not living in New Jersey is automatically disqualified from receiving this permit.

Further, a retired law enforcement officer from a Pennsylvania township or a retired Virginia sheriff are not from "qualifying" police departments, but may still be eligible to receive a permit if they live in New Jersey, if they are a "qualified retired law enforcement officer, as used in the federal Law Enforcement Officer's Safety Act of 2004." Also, see below for a discussion of how the Federal Law Enforcement Officers Safety Act of 2004 affects such retired officers in addition to the New Jersey statute.

(3) May an officer who retired based on a disability qualify?

A: Yes, if that officer meets the above criteria, and served for an aggregate of four or more years prior to the disability, the disability did not involve certification that the officer was mentally incapacitated for the performance of his usual duties and any other available duty the department was willing to assign, and that the disability does not subject the officer to any of the disqualifications of N.J.S. 2C:58-3.

(4) Is there a fee for a retired police officer permit to carry?

A: The Superintendent may charge a reasonable application fee for this application process.

(5) How long is the retired police officer permit to carry valid?

A: The approval shall be valid for one year, and must be renewed annually.

(6) What if a retired police officer is denied a permit to carry?

A: Any person denied by the Superintendent may request a hearing in Superior Court within 30 days of the denial. A Judge of the Superior Court may revoke the officer's privilege to carry a handgun for good cause shown on the application of any interested person.

(7) What is the Law Enforcement Officer Safety Act of 2004, and how does it affect the ability of retired officers to carry a firearm in New Jersey?

A: Currently, it does not provide as much protection to retired officers as might be expected.

The Law Enforcement Officer Safety Act of 2004 (better known as HR 218 and codified under Title 18 United States Code, provides that a "qualified retired law enforcement officer" who is carrying the proper identification may carry a concealed firearm, notwithstanding the laws of the States, including New Jersey. A concealed firearm may include a handgun, rifle or shotgun, but does not include a machine gun, destructive device, or silencer.

A "qualified retired law enforcement officer":

has retired in good standing from service with a public agency as a law enforcement officer, other than for reasons of mental instability

as a law enforcement officer, had powers of arrest and was authorized to engage in the detection, prevention, investigation, prosecution, or incarceration of any person for any violation of law

has a nonforfeitable right to benefits under the retirement plan of the agency;

during the most recent 12-month period, has met, at the expense of the individual, the State's standards for training and qualification for active law enforcement officers to carry firearms;

is not under the influence of alcohol or another intoxicating or hallucinatory drug or substance;

is not prohibited by Federal law from receiving a firearm; and.

was regularly employed as a law enforcement officer for an aggregate of 15 years or more OR retired 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;

The "proper identification" that the retired officer must carry is:

a photographic identification issued by the agency from which the individual retired from service as a law enforcement officer that 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 standards established by the agency for training and qualification for active law enforcement officers to carry a firearm of the same type as the concealed firearm;

or

a photographic identification issued by the agency from which the individual retired from service as a law enforcement officer; **and** a (separate) certification issued by the State in which the individual resides that 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 State to meet the standards established by the State for training and qualification for active law enforcement officers to carry a firearm of the same type as the concealed firearm.

As described above, this Act makes retired officers qualified to receive a New Jersey retired law enforcement officer permit to carry a handgun, if the officer is domiciled in New Jersey.

However, it is less clear how this law affects non-resident retired law enforcement officers who are traveling into and through New Jersey with their firearms. While New Jersey is supposed to respect this federal preemptive law, New Jersey has a long history of ignoring other preemptive federal laws, such as the Firearms Owners protection Act (18 U.S.C. 926A), and is quick to lay charges and force the defendant to prove himself innocent. Further, a non-resident retired officer will not have a New Jersey-issued permit that would be easily recognized by an active duty New Jersey officer. This may cause confusion and could result in a false arrest. Unfortunately, New Jersey will not, at yet, issue a retired law enforcement officer permit to carry a handgun to non-resident officers, leaving any retired officer without a New Jersey-issued permit at risk of arrest.

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In 2007, the Legislature broadened the carry permit law for retired officers. Most importantly, officers need no longer apply within six months of their retirement, an issue that was causing problems with many otherwise qualified candidates. Further, the Legislature increased the maximum age of retired officers who apply for this permit from 70 to 75, and decreased the minimum amount of years of experience (from 5 to 4) for officers who retired on a disability. Finally, the Legislature also recognized that officers who retired from other than New Jersey agencies can qualify, if they meet the criteria under the Federal Law Enforcement Officers' Safety Act of 2004, are presently domiciled in New Jersey, and meet the New Jersey training standards.