

JUSTICE AND PUBLIC SAFETY CABINET
Kentucky Law Enforcement Council
(Amendment)

502 KAR 13:010. Application for certification under the Law Enforcement Officers Safety Act of 2004 ("LEOSA"), 18 U.S.C. 926C, for honorably retired elected or appointed peace officers.

RELATES TO: KRS 15.383, 61.365, 186.412, 237.138-237.142, 446.010(29), 18 U.S.C. 926C[~~Pub.L. 108-277~~]

STATUTORY AUTHORITY: KRS 237.140

NECESSITY, FUNCTION, AND CONFORMITY: KRS 237.140 provides for the certification of honorably retired elected or appointed peace officers to carry a concealed deadly weapon pursuant to 18 U.S.C. 926C and authorizes [~~requires~~] the department [~~Kentucky State Police~~] to promulgate administrative regulations to implement the certification provisions. This administrative regulation establishes the requirements and procedures for certification.

Section 1. Definitions. (1) "Applicant" means an honorably retired peace officer who has applied to the Kentucky State Police to be certified to carry a concealed deadly weapon pursuant to 18 U.S.C. 926C.

(2) "Application form" means the "Commonwealth of Kentucky Carry Concealed Deadly Weapons/LEOSA: Application for License."

(3) "Honorably retired" means an elected or appointed peace officer who:

(a) Separated in good standing from service with a public agency as a law enforcement officer;

(b) Before 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;

(c)1. Before separation, served as a law enforcement officer for an aggregate of ten (10) years or more; or

2. Separated from service with an agency, after completing any applicable probationary period of service, due to a service-connected disability, as determined by the agency;

(d)1. Has not been officially found by a qualified medical professional employed by the agency from which the applicant separated from service to be unqualified for reasons relating to mental health; or

2. Has not entered into an agreement with the agency from which the applicant separated from service in which the applicant acknowledged that he or she is not qualified under 18 U.S.C. 926C for reasons relating to mental health;

(e) During the most recent twelve (12) month period, has met, at the expense of the retired peace officer, Kentucky's standards for training and qualifications for active law enforcement officers to carry firearms, as set out in KRS 15.383;

(f) Is not under the influence of alcohol or another intoxicating or hallucinatory drug or substance; and

(g) Is not prohibited by Federal law from receiving a firearm.

(4) "License" means the document indicating the approved certification pursuant to the Law Enforcement Officers Safety Act of 2004, as codified in 18 U.S.C. 926C.

(5)[(4)] "Peace Officer" is defined by KRS 446.010(31)[(29)] and 61.365.

Section 2. An application form shall be identified by a unique number that shall be:

- (1) Expressed on the application form as a bar code that contains the application number;
- (2) Used as the identifying number for the applicant; and
- (3) Machine and human readable.

Section 3. Application forms shall:

- (1) Not be stored in an area accessible to the public; and
- (2) Not be removed from the office of the sheriff except as permitted by Section 6(4) of this administrative regulation.

Section 4. Applicants shall submit an application and documents required by KRS 237.138 to 237.142 to the department by:

- (a) Electronically, via the department Web site and according to the procedures as described by the department; or
- (b) By the procedures set forth in Section 5 - Section 7 of this regulation.

Section 5. A sheriff shall issue an application form to an applicant if:

- (1) An applicant meets the requirements established by KRS 237.138 to 237.142;
- (2) The sheriff has verified that an applicant is qualified for certification pursuant to KRS 237.138 to 237.142 and this administrative regulation;
- (3) An applicant has submitted the material required by KRS 237.138 to 237.142 and this administrative regulation;
- (4) Verification that an applicant is a Kentucky resident is made by:
 - (a) Submission of a valid Kentucky operator's license or personal identification card issued by the Transportation Cabinet ~~[a circuit court clerk]~~ pursuant to KRS 186.412;
 - (b) Personal knowledge of the sheriff; or
 - (c) Confirmation by another governmental agency; and
- (5) Verification of an applicant's Social Security number is made by submission of:
 - (a) The applicant's Social Security card; or
 - (b) A governmental agency document that contains the applicant's name and Social Security number.

Section 6. ~~[Section 5.]~~ Completion of Application Form. An applicant shall:

- (1) Complete an application;
- (2) Sign the application in the applicant signature block of the application form in ink;
- (3) Provide the information required by KRS 237.110(7)(a) through (e) on the application form;
- (4) Not fold or tear the form;
- (5) Use a black ink pen to complete the form;
- (6) Not mark or otherwise make an entry in the "For Sheriff's Dept. Use Only" portion;
- (7) Fill each bubble completely;
- (8) Fill in or enter information, as appropriate, within a column block or bubble;
- (9) Write within the constrained areas;
- (10) Use upper case (capital) letters;
- (11) Provide a photograph of the applicant complying with the provisions of 502 KAR 13:070;
- (12) Submit the following completed forms to the sheriff to be attached to the application form:
 - (a) A KSP Form 123, Law Enforcement Officers Safety Act Licensee Peace Officer Range Qualification Certification ~~[LEOSA (KSP 123)]~~;

- (b) A KSP Form 124A, LEOSA Applicant Certification [(KSP 124A)]; and
- (c) A KSP Form 124B, LEOSA Law Enforcement Retirement Certification [(KSP 124B)]; and
- (13) Not be required to pay an application fee.

Section 7.~~[Section 6.]~~ Sheriff's Duties. (1) If an applicant fails to follow the instructions for completion of an application, the sheriff shall:

- (a) Destroy the improperly completed application; and
- (b) Require the applicant to complete a new application form.
- (2) The sheriff shall complete in black ink the lower right hand portion of the application form titled "For Sheriff's Dept. Use Only" by:
 - (a) Completing the ORI Number;
 - (b) Filling in the date of application;
 - (c) Indicating the applicant is a retired peace officer;
 - (d) Indicating the applicant is seeking LEOSA certification; and
 - (e) Signing in the portion labeled "Authorizing Official Signature."
- (3) The sheriff shall place the following material in a single applicant packet:
 - (a) The applicant's completed application form;
 - (b) A photograph of the applicant complying with the provisions of 502 KAR 13:070; and
 - (c) A completed KSP 123, 124A, and 124B.
- (4) The sheriff shall mail single applicant packets:
 - (a) In a bulk mailer~~;~~ and
 - (b) ~~On dates established by the "CCDW-LEOSA Application Mailing Schedule For Sheriffs."~~

Section 7. Incorporation by Reference. (1) The following material is incorporated by reference:

- (a) ~~"Commonwealth of Kentucky Carry Concealed Deadly Weapons/LEOSA: Application for License", October 2009;~~
- (b) ~~"CCDW-LEOSA Application Mailing Schedule For Sheriffs", July 2006;~~
- (a)~~(c)~~ KSP Form 123, "Law Enforcement Officers Safety Act Licensee Peace Officer Range Qualification Certification," 2014 edition [-LEOSA", KSP 123,07/05];
- (b)~~(d)~~ KSP Form 124A, "LEOSA Applicant Certification", [(KSP 124A)], [December] 2010 edition; and
- (c)~~(e)~~ KSP Form 124B, "LEOSA Law Enforcement Retirement Certification", 2014 edition. [KSP 124B, December 2010.]

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Criminal Identification and Records Branch, Kentucky State Police, 1266 Louisville Road, Frankfort, Kentucky 40601, Monday through Friday 8 a.m. to 4:30 p.m. This material is also available on the department Web site at kentuckystatepolice.org.~~[phone, (502) 227-8700.]~~

PHILLIP J. BURNETT, Jr., Acting Commissioner

APPROVED BY AGENCY: August 24, 2021

FILED WITH LRC: August 26, 2021 at 4:30 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on 11:00 a.m. on November 22, 2021 at 4449 Kit Carson Drive, Funderburk Building, Richmond, Kentucky 40475. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be

given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through 11:59 PM on November 30, 2021. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person below.

CONTACT PERSON: Amy Barker, Assistant General Counsel, 125 Holmes Street, Frankfort, Kentucky 40601, phone (502) 564-8207, fax (502) 564-6686, email amy.barker@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Amy Barker

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the requirements and procedures for CCDW certification for honorably retired, elected, or appointed peace officers.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to outline the requirements and standards that must be met for CCDW licensure.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This regulation conforms to the authorizing statute by laying out the procedures to be followed by law enforcement desiring CCDW licensure.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The regulation assists in the administration of the statutes by providing the process to be followed by both the department and prior law enforcement officials.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: The amendment clarifies the existing language of the regulation, and removes outdated terms and requirements.

(b) The necessity of the amendment to this administrative regulation: The amendment revises the statutory authority.

(c) How the amendment conforms to the content of the authorizing statutes: The amended regulation allows for the reporting procedures to be more effectively understood by the Department and reporting agencies; includes the definition of what a "license" is; states how applications are processed; and updates the materials incorporated by reference.

(d) How the amendment will assist in the effective administration of the statutes: The amendment clarifies the existing language, procedures, and the statutory authority.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The Department of Kentucky State Police, and law enforcement officials desiring CCDW licensure.

(4) Provide an analysis of how the entities identified in the previous question will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions each of the regulated entities have to take to comply with this regulation or amendment: No new or additional actions will have to be taken by the regulated entities in order to effectively comply with this amended regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities: Nothing.

(c) As a result of compliance, what benefits will accrue to the entities: The Department and criminal justice agencies will benefit from more clearly defined procedures, which will assist in the administration of the procedures.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: None.

(b) On a continuing basis: None.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Not applicable.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees will be necessary.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: No, this regulation does not establish any new fees; nor does it directly or indirectly increase any fees.

(9) TIERING: Is tiering applied? No. Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department of Kentucky State Police, and law enforcement officials desiring CCDW licensure.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 237.140 and the applicable federal statutes.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None.

(c) How much will it cost to administer this program for the first year? Nothing.

(d) How much will it cost to administer this program for subsequent years? Nothing.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): None.

Expenditures (+/-): None.

Other Explanation: None.