



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
THIRTY-FIRST LEGISLATURE, 2021**

ON THE FOLLOWING MEASURE:
S.B. NO. 459, RELATING TO FIREARMS.

BEFORE THE:
SENATE COMMITTEE ON JUDICIARY

DATE: Tuesday, February 16, 2021 **TIME:** 9:16 a.m.

LOCATION: State Capitol, Via Videoconference

TESTIFIER(S): Clare E. Connors, Attorney General, or
Amy Murakami, Deputy Attorney General

Chair Rhoads and Members of the Committee:

The Department of the Attorney General (Department) supports this bill with amendments.

The purpose of this bill is to authorize the Department to develop and implement a statewide program to allow qualified law enforcement officers and qualified retired law enforcement officers to carry concealed firearms in Hawaii pursuant to the Federal Law Enforcement Officers Safety Act of 2004 (LEOSA). This bill also requires qualified law enforcement officers and qualified retired law enforcement officers to comply with state firearm laws. The Department requests that the bill be amended to specifically authorize the Department to develop and implement a statewide firearm certification program for qualified retired law enforcement officers and to eliminate the Department's responsibility for creating a statewide program to implement LEOSA as it applies to qualified law enforcement officers.

LEOSA is a federal law that sets forth the requirements for a currently employed or retired law enforcement officer to carry a concealed weapon interstate. Except for the firearm qualification certification required for qualified retired law enforcement officers, LEOSA does not require state implementation of the law. Any conflict between LEOSA and state firearm laws must be resolved by a court. Therefore, the Department's role in implementing LEOSA should be limited to creating a statewide firearm certification program for qualified retired law enforcement officers.

The Department would create a program that would be well regulated and operated uniformly throughout the State with public safety as a priority.

The Department requests that the bill be amended to limit the Department's role in implementing LEOSA to issuing firearm qualification certifications for qualified retired law enforcement officers and to provide the Department with the statutory authority and the ability to promulgate rules to ensure qualified retired law enforcement officers residing in this State are properly certified to carry concealed firearms safely. The Department requests the following amendments:

In section 1 on page 3, lines 8-12, amend the paragraph to read:

The purpose of this Act is to authorize the department of the attorney general to develop and implement a state program to ~~[allow active and]~~ issue firearm qualification certifications to qualified retired law enforcement officers to carry a concealed firearm in Hawaii pursuant to the LEOSA, as amended.

In section 2 on page 3, line 16, through page 4, line 16, amend the new section to read:

§134- Carrying of concealed firearm by law enforcement officers.

(a) To carry a concealed firearm in this State pursuant to title 18 United States Code section 926B, a qualified law enforcement officer shall comply with all state laws, including but not limited to this chapter ~~[and rules adopted under this section]~~. If a qualified law enforcement officer is not on official duty with the officer's government agency and is carrying a concealed firearm pursuant to title 18 United States Code section 926B in this State, state law shall apply to this officer as a person with no law enforcement powers.

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

(c) ~~[The department of the attorney general shall adopt rules pursuant to chapter 91 to effectuate the purposes of this part.]~~ The attorney general may issue firearm qualification certifications to qualified retired law enforcement officers, in conformity with title 18 United States Code section 926C. The attorney general may adopt, amend, and repeal rules concerning the issuance of firearm qualification certifications. The rules shall be exempt from the public notice and public hearing requirements of chapter 91.

In section 3 on page 6, lines 17-20, amend the new subsection (e) being added to section 134-9, Hawaii Revised Statutes, to read:

(e) This section shall not apply to qualified law enforcement officers carrying a concealed firearm in compliance with title 18 United States Code section 926B or qualified retired law enforcement officers ~~[and the rules adopted pursuant to section 134.]~~ carrying a concealed firearm in compliance with title 18 United States Code section 926C."

The Department respectfully requests the passage of this bill with the suggested amendments.

February 14, 2021

The Honorable Karl Rhodes

Committee on Judiciary

RE: SB459

Dear Senator Rhodes and members:

My name is Charles Hirata and I retired as a captain after serving 32 years in the Maui Police Department. I am authorized to carry a firearm under the Law Enforcement Officers Safety Act (LEOSA) within the United States.

I am testifying in support of SB 459, which 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 the State pursuant to the federal Law Enforcement Officers Safety Act of 2004. As you know, LEOSA was enacted in 2004 and was amended in 2010 and 2013 to address difficulties retired officers have encountered while trying to obtain their LEOSA permit.

The "[Interim Rules](#)" currently used by the Hawaii Attorney General's Office was developed without any public input and the requirements have made the application process extremely difficult. Compared to some mainland states, the Hawaii rules deny retired officers equal protection by making the process prohibitively difficult. For example, retired officers in Molokai and Lanai would be required to travel to Maui or Honolulu to submit their application. The doctors of retirees who belong to certain HMOs have prohibitions on signing off on a bi-annual physical required by the State. They would then be required to pay for a physical out of pocket. Moreover, applicants must shoot a perfect score to qualify and only have two opportunities to do so. Failing to qualify with the perfect score results in the retiree forfeiting his \$130.00 application fee. I have yet to find a law enforcement agency in Hawaii that requires a perfect score for active duty officers.

My main concern is without a set of rules that lack public input, the current situation deprives retired officers of fairness. Retirees from mainland departments can obtain their LEOSA permit and carry their firearms in Hawaii with relative ease whereas officers who served their entire careers in Hawaii must endure a process that was designed to exclude as many retirees as possible.

Please keep in mind that the Hawaii requirements would apply to state, federal and local retired law enforcement from the mainland if they reside in Hawaii.

I ask that your committee pass this bill and allow that retired Hawaii law enforcement the fairness they deserve after serving their communities.

Sincerely,

Charles Hirata

Captain (Retired)

Maui Police Department

SB-459

Submitted on: 2/11/2021 1:51:51 PM

Testimony for JDC on 2/16/2021 9:16:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
cheryl B.	Individual	Oppose	No

Comments:

OPPOSE

Some research shows that events with guns occur in the hands of law enforcement officials and military. Why would we allow them to conceal carry? Would this carry over for "visiting" law enforcement, retired here on vacation too? This seems to open a door that really does not need to be opened or maybe I'm just cautious after January 6.

SB-459

Submitted on: 2/11/2021 2:38:07 PM

Testimony for JDC on 2/16/2021 9:16:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Brian Isaacson	Individual	Support	No

Comments:

Great idea to have former law enforcement officers armed to help protect the public and themselves.

SB-459

Submitted on: 2/11/2021 10:07:39 PM

Testimony for JDC on 2/16/2021 9:16:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Philip T. Rapoza	Individual	Support	No

Comments:

I support

SB-459

Submitted on: 2/12/2021 6:32:45 PM

Testimony for JDC on 2/16/2021 9:16:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Alan Urasaki	Individual	Support	No

Comments:

Support

LATE

SB-459

Submitted on: 2/16/2021 8:44:59 AM

Testimony for JDC on 2/16/2021 9:16:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
keoni de la cruz	Individual	Oppose	No

Comments:

This bill hinders the ability for qualified retired officers to get their yearly qualification. In this era of COVID officers have not been able to qualify which makes them ineligible to carry. They also are unable to get the medical clearance do to lack of appointments. With all the gun incidents happening on the islands it would be beneficial to public safety that these retired and active Law Enforcement Officers be allowed to carry for the public's safety which the law was intended for as signed by President Bush. You are allowed armed law enforcement to protect you now allow the public to have protection from qualified retired and active law enforcement.