

	MIDDLETON POLICE DEPARTMENT	DATE April 25, 2007	POLICY 5.4.01
SUBJECT: Former Officer Concealed Carry Certification		REVIEWED February 27, 2018	

Refer to: SS [175.49](#); [175.49\(2\)](#); [941.23\(1\)\(c\)](#); [Law Enforcement Officers Safety Act of 2004](#); [Law Enforcement Officers Safety Act Improvements Act of 2010](#); [WILENET: Former Law Enforcement Officers and Concealed Carry](#)
History: 2007, 6/2013, 07/2015
WILEAG (5th Ed.) Standards: None

POLICY

The United States Congress passed the Law Enforcement Safety Act of 2004 (revised in 2010), commonly referred to as HR 218, which amended Chapter 44 of Title 18, United States Code by authorizing active and qualified retired law enforcement officers to carry a concealed firearm under certain conditions. The Middleton Police Department will assist its former officers, who meet the requirement of the law and are separated from service in good standing, in exercising the authority granted by Congress.

PURPOSE

The purpose of this policy is to set out the procedures by which qualified retired officers may obtain identification cards required by the statute.

DEFINITIONS

Unless otherwise specifically stated in Middleton Police Department regulations, policies or procedures, the definitions listed below are intended to be limited to the purpose of this policy.

Police Officer: The title “Officer” is intended to include all sworn law enforcement officers employed by the Middleton Police Department regardless of rank or assignment. All Middleton Police officers are fully sworn and certified law enforcement officers with powers of arrest and authorized to carry firearms as part of their duties.

Duty Disability Retirement: Duty disability retirement includes non-probationary officers who were otherwise in good standing but received a disability retirement due to an on duty injury that rendered them incapable of continued service as a Middleton Police officer, but not related to stress or mental instability.

Law Enforcement Safety Act Identification Card: Refers to the identification card required for retired law enforcement officers and described in U.S.C. Title 18, Chapter 44, Section 926C (1)(d).

Law Enforcement Safety Act of 2004 (HR 218): Public Law 108-277 refers to the United States Code (U.S.C.), Title 18, Chapter 44, Sections 926B and 926C.

S. 1132(HR 218): Public Law 110-272 refers to the Law Enforcement Officers Safety Act Improvements of 2010.

Qualified Retired Law Enforcement Officer: A retired officer who meets the requirements of U.S.C. Title 18, Chapter 44, Section 926C.

Qualified Retired Law Enforcement Officers: To be considered a qualified retired law enforcement officer, people must meet the following criteria: They must have 1) “*separated from service* in good standing with the Middleton Police Department 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 has statutory powers of arrest; 3)(A) before such *separation*, served as a law enforcement officer for an aggregate of 10 years or more; (B) *separated* from service with the Middleton Police Department, after completing any applicable probationary period of such service, due to a service connected disability, as determined by the Middleton Police Department; 4) during the most recent 12-month period, has met, at the expense of the individual, the standards for qualification firearms training for active law enforcement officers, as determined by the State of Wisconsin; 5)(A) 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 a Law Enforcement Safety Act card; or (B) has not entered into an agreement with the Middleton Police Department that the individual acknowledges that he or she is not qualified under this section for reasons relating to mental health and for those reasons will not receive or accept the Law Enforcement Safety Act card; 6) is not under the influence of alcohol or other intoxicating or hallucinatory drug or substance; and 7) is not prohibited by Federal law from receiving a firearm.”

PROCEDURE

Determination of Eligibility

- A. The Administrative Services Division will maintain a database record of qualified retired officers. The database will indicate whether the qualified retired officer is eligible to request a Law Enforcement Safety Act identification card under this policy. At a minimum, the officer must have:
 1. served as a certified law enforcement officer for an aggregate of 10 years and
 2. separated from service in good standing or as the result of a duty disability not related to mental instability.
- B. The Administrative Services Captain will use U.S.C. Title 18. Chapter 44, Section 926C (c) as a guideline to determine eligibility.
- C. Firearms Qualification – The State of Wisconsin Law Enforcement Standards Board (LESB) has established a standard required qualification course for former Wisconsin officers requesting a certification card, pursuant to s. 175.49(2)(a)2.

1. The former officer must qualify using this State course administered by any LESB-certified firearms instructor. The LESB firearms instructor will issue the officer a standard LESB qualification certificate.
2. The former officer must submit the LESB qualification certificate to the Chief of Police.
3. The Chief of Police is required to certify the former officer and issue a Law Enforcement Safety Act identification card.

Law Enforcement Safety Act Card Design

The Middleton Police Department may issue a Law Enforcement Safety Act identification card as described in section 926C(d)(1). At a minimum the card will contain the following:

- A. A recent photo of the officer.
- B. The type of firearm with which the officer qualified.
- C. The last date the officer successfully completed the LESB qualification course.
- D. A statement that the card is not valid unless presented with a Middleton Police identification card.

Requests for Law Enforcement Safety Act Identification Card

- A. Eligible officers may request a Law Enforcement Safety Act identification card either upon separation from service or anytime thereafter.
- B. If a Law Enforcement Safety Act identification card is requested within one year of separation of service, the card will contain the date the officer last successfully completed the LESB firearms qualification course and the type of weapon used.
- C. If a Law Enforcement Safety Act identification card is requested more than one year after separation from service:
 1. The officer must obtain certification on the LESB qualification course by a LESB-certified firearms instructor.
 2. The officer must submit an LESB qualification certificate to the Chief of Police.
 3. The Chief of Police must issue a Law Enforcement Safety Act card to the officer.
- D. The department may periodically host a firearms qualification session for qualified retired officers.
 1. Qualified retired officers must do the following:
 - a. Pay a fee set by the department to cover the cost of the session.
 - b. Read and sign a release, waiver of liability, and assumption of risk agreement that contains at a minimum the following:

- c. A waiver of liability and assumption of risk related to the use of the Dane County Law Enforcement Training Center.
 - d. Acknowledgement that the Law Enforcement Safety Act identification card does not confer any law enforcement authority and is limited to the provisions of the Law Enforcement Safety Act.
 - e. A certification that the officer has read and is familiar with the Law Enforcement Safety Act of 2004 and revisions under S. 1132 and that they are a qualified retired law enforcement officer as defined by the Act.
 - f. A certification that they are not prohibited from purchasing or possessing a firearm by either Federal or State law.
 - g. A pledge to indemnify, defend, and hold harmless the City of Middleton and the Department and its employees in any and all actions related to carrying a firearm as authorized by the Law Enforcement Safety Act of 2004 and revisions under S. 1132.
 - h. Successfully complete and pass the LESB standard firearms qualification course. Failure to pass the qualification will result in no card being issued.
 - i. Only handguns similar to those authorized for use by active duty Middleton Police Department officers may be used for qualification.
2. During the training session the Department will:
- a. Review the release, waiver, and assumption of risk document.
 - b. Clearly inform the retired officers that issuance of a Law Enforcement Safety Act identification card does not confer any authority to act as a law enforcement officer or an agent of the City or the Police Department.
 - c. Provide each attendee with a copy of the Law Enforcement Safety Act of 2004 (HR 218) and revisions under S. 1132. Qualified retired officers are responsible for knowing and understanding all applicable statutes relating to the carrying of concealed weapons.
 - d. Not provide instruction on interpretation of either the Law Enforcement Safety Act or relevant State Statute.
 - e. Provide LESB certified and Department approved range officers to administer the firearms qualification course.
- E. Qualified retired Middleton Police officers may obtain a LESB qualification certificate from any LESB-certified firearms instructor using the LESB standard qualification course.