



DEPARTMENT OF THE ATTORNEY GENERAL

Adoption of Interim Internal Management Regulation

October 28, 2014

SUMMARY

Interim Internal Management Regulation entitled "State of Hawaii Firearm Certification for Qualified Retired Law Enforcement Officers", is adopted.

DEPARTMENT OF THE ATTORNEY GENERAL
INTERIM INTERNAL MANAGEMENT REGULATION
GENERAL DEPARTMENTAL PROVISIONS AND PROGRAMS

STATE OF HAWAII FIREARM CERTIFICATION
FOR QUALIFIED RETIRED LAW ENFORCEMENT OFFICERS

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GENERAL PROVISIONS

Purpose. This internal management regulation is intended to implement provisions of the federal Law Enforcement Officers Safety Act of 2004, as amended by the Law Enforcement Officers Safety Act Improvements Act of 2010, and the National Defense Authorization Act for Fiscal Year 2013, codified at 18 United States Code section 926C, which provide, in relevant part, that a "qualified retired law enforcement officer" may carry a concealed firearm if the qualified retired law enforcement officer is also carrying a photographic identification issued by the agency from which the qualified retired law enforcement officer separated and a certification issued by the state in which the qualified retired law enforcement officer resides that indicates that the qualified retired law enforcement officer has, not less recently than one year before the date the qualified retired law enforcement officer 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.

(Auth: Memorandum of Understanding Dated: 9/17/14)

(Imp: 18 U.S.C. § 926C)

Definitions. As used in this internal management regulation, unless a different meaning clearly appears in the context:

"Certified qualified retired law enforcement officer" means a qualified retired law enforcement officer that has met all certification requirements of the State of Hawaii Firearm Certification for Qualified Retired Law Enforcement Officers program and is issued a firearm certified identification card.

"Firearm" means a 9 millimeter, .38 caliber, .40 caliber, or .45 caliber firearm that is properly

registered in the State of Hawaii to the qualified law enforcement officer seeking certification. A qualified retired law enforcement officer shall not carry a concealed firearm of any other type without prior written approval by the attorney general.

"Firearms instructor" means a person who (1) has a valid and current Law Enforcement Firearms instructor certification from the National Rifle Association, or who is a valid and current law enforcement firearms instructor from another organization; and (2) has been approved by the attorney general.

"Law enforcement officer" means a person who is a government employee with a public agency; who is 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 the law, and has statutory powers of arrest or apprehension under section 807(b) of title 10, United States Code (article 7(b) of the Uniform Code of Military Justice). A law enforcement officer of the Amtrak Police Department, a law enforcement officer of the Federal Reserve, or a law enforcement or police officer of the executive branch of the federal government qualifies as an employee of a governmental agency who is 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 or apprehension under section 807(b) of title 10, United States Code (article 7(b) of the Uniform Code of Military Justice). Third party contracted security officers who are given statutory powers of arrest as part of a contract with a government agency, and active duty armed forces personnel assigned to a military police type unit, are not law enforcement officers for purposes of this chapter.

"Qualified retired law enforcement officer" means a former law enforcement officer who meets all the requirements of 18 United States Code section 926C and state law to participate in the State of Hawaii firearm certification program.

"Range safety officer" means a person identified by the attorney general or firearms instructor who is responsible for safety rules of the firing range.

"State" means the State of Hawaii.

"Under the influence of alcohol or another intoxicating or hallucinatory drug or substance" means to have any amount of alcohol or another intoxicating

or hallucinatory drug or substance in the blood or breath. (Auth: Memorandum of Understanding Dated: 9/17/14) (Imp: 18 U.S.C. § 926C)

SECTION 1

FIREARM CERTIFICATION

§1-1 Firearm certification requirements; minimum qualifications. Before an applicant may participate in the State of Hawaii firearm certification program, the applicant must be a "qualified retired law enforcement officer" who has met the following requirements (as verified by the public agency the applicant separated from service):

- (1) Separated from service in good standing from service with a public agency 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 had statutory powers of arrest or apprehension under section 807(b) of title 10, United States Code (article 7(b) of the Uniform Code of Military Justice);
- (3) Before such separation, served as a law enforcement officer for an aggregate of ten years or more; or separated 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;
- (4) Before such separation from service with such agency, has not been officially found by a qualified medical professional employed by the agency to be unqualified for reasons relating to mental health;
- (5) Before such separation from service with such agency, has not entered into an agreement with the agency from which the individual is separating from service in which that individual acknowledges he or she is not qualified under this section for reasons relating to mental health;
- (6) Is not under the influence of alcohol or another intoxicating or hallucinatory drug or substance; and

- (7) Is not prohibited by Federal law from receiving a firearm. (Auth: Memorandum of Understanding Dated: 9/17/14) (Imp: 18 U.S.C. § 926C)

§1-2 Firearm certification requirements; firearm certification program: The firearm certification program administered to an applicant shall consist of the following:

- (1) Certification testing shall be conducted by a firearms instructor and shall be consistent with generally recognized standards of law enforcement firearms training. The format shall be determined by the attorney general, and shall include the following:
 - (A) Firearms proficiency;
 - (B) Firearms safety;
 - (C) Firearms handling; and
 - (D) Review of Hawaii statutes regarding firearms, ammunition, and dangerous weapons and use of force.
- (2) An applicant who resides in Hawaii must reapply for certification annually.
- (3) An applicant may take remedial firearms training at the applicant's discretion and cost.
- (4) An applicant seeking certification shall participate in a minimum of four hours of classroom instruction.
- (5) The applicant shall be given a copy of chapters 134 and 703, Hawaii Revised Statutes, and must demonstrate, by a written test, that the applicant understands the provisions governing firearms and use of force.
- (6) The written test shall be signed by the person scoring the test and the applicant. The original test shall be given to the attorney general and made a part of the applicant's application file.
- (7) The firearms instructor shall cover the following items for informational purposes only:
 - (A) Weapons retention; and
 - (B) Night fire.

- (8) The applicant must pass the written test with a ninety percent correct score. The applicant must pass the written test within two attempts. The second attempt must be completed within forty-five days after the first attempt. If the applicant fails both attempts, the applicant may not reapply for certification for one calendar year after the date of the second attempt.
- (9) An applicant seeking certification shall participate in a minimum of four hours of field testing.
- (10) The applicant is responsible for ensuring that the applicant's firearm is safe and functional before it is used for certification. Firearms used for certification shall be stock and meet factory specifications. Magazines shall comply with section 134-8, Hawaii Revised Statutes, and shall not have a capacity in excess of ten rounds. The firearms instructor shall check each firearm before it is used for certification. A firearm identified as unsafe or not meeting factory specifications cannot be used until the Firearms instructor is satisfied that the firearm is safe and fully functional.
- (11) The applicant shall field strip and clean the firearm if directed to do so by a firearms instructor or range safety officer.
- (12) The applicant shall field strip and properly clean the firearm upon completion of firing.
- (13) The applicant shall enter the range with the firearm unloaded and safely stored in an enclosed container as defined by section 134-25, Hawaii Revised Statutes.
- (14) Upon entering the range, the applicant shall report immediately to the assigned firing station and bench the firearm with the cylinder or slide in the open position.
- (15) The applicant shall retrieve the firearm when directed to do so by the firearms instructor or range safety officer for familiarization and field stripping. Thereafter, the applicant shall bench the firearm at the assigned station.
- (16) The applicant shall point the firearm down range at all times.

- (17) The applicant shall not move on the firing line at any time unless directed to do by the firearms instructor or range safety officer.
- (18) In addition to the safety rules in this policy, the applicant shall follow all safety rules of the firing range. If the applicant violates any safety rule in this policy or any safety rule of the firing range, the applicant may be denied certification.
- (19) If the applicant fails to follow the directions of a firearms instructor or range safety officer, the applicant may be denied certification.
- (20) The applicant should zero-in the firearm before the certification test. The applicant may zero-in the firearm after the familiarization session.
- (21) During the shooting course, the firearm shall be carried in and drawn from a strong-side belt holster that has a retention system that can safely secure the firearm.
- (22) The use of eye and ear protection is mandatory.
- (23) If the applicant handles the firearm improperly or unsafely, the applicant may be disqualified from proceeding with the shooting course.
- (24) The shooting course requires forty-three rounds of ammunition. The ammunition shall comply with section 134-8, Hawaii Revised Statutes. The ammunition shall be of full power for the appropriate caliber and not lighter target loads. The ammunition shall be inspected and approved by the firearms instructor before it is used.
- (25) The target used for a shooting course shall be a B-21 silhouette target or any target approved by the attorney general. A sample of the B-21 silhouette target is attached at page 13.
- (26) The shooting course shall consist of the following five phases of shooting:
 - (A) PHASE 1

Distance: Three-yard line

Time allotted: 2.5 seconds per firing sequence

Rounds: Six rounds fired in three separate two round sequences

Positions: Standing

At the three-yard line, the applicant shall have a fully loaded firearm holstered. Reloading may be conducted between firing sequences as necessary. The applicant shall stand directly in front of the target with both hands held at the applicant's side. On the first whistle, the applicant shall side step to the right, draw the firearm, and fire two rounds into the chest area. The applicant shall then evaluate the target and holster the firearm. On the second whistle, the applicant shall repeat the above, but side step to the left and fire two rounds to the chest. The applicant shall then evaluate the target and holster the firearm. On the third whistle, the applicant shall draw the firearm, step straight back, and repeat the firing sequence as above. The applicant shall unload the firearm, holster, and stand with hands behind the applicant's back.

(B) PHASE 2

Distance: Five-yard line

Time allotted: 2.5 seconds per firing sequence

Rounds: Six rounds

Positions: Standing, support hand only

From the five-yard line, the applicant shall stand at the ready with a fully loaded firearm pointed down range in the support hand only (weak hand, unsupported). On the first whistle, the applicant shall raise the firearm, sight

in, and fire two rounds into the chest area of the target. The applicant shall evaluate the target and stand at the ready as described above. On the second whistle, the applicant shall repeat the above firing sequence. The applicant shall evaluate the target and stand at the ready as above. On the third whistle, the applicant shall repeat the above firing sequence. The applicant shall then evaluate the target, transfer the firearm to the dominant hand, and unload and holster the firearm.

(C) PHASE 3

Distance: Five-yard line

Time allotted: 3.5 seconds per firing sequence

Rounds: Eight rounds

Positions: Standing, natural point shoulder

At the five-yard line, the applicant shall have a fully loaded firearm holstered. On the first whistle, the applicant shall side step right, draw, and fire two rounds to the chest. On the second whistle, the applicant shall repeat the above. On the third whistle, the applicant shall side step left, draw, and fire two rounds to the chest. On the fourth whistle, the applicant shall repeat the above, then unload and holster the firearm.

(D) PHASE 4

Distance: Seven-yard line

Time allotted: 4.0 seconds per firing sequence

Rounds: Eight rounds

Positions: Standing, natural point shoulder

At the seven-yard line, the applicant shall have a fully loaded firearm holstered. On command, the applicant shall turn to the applicant's right and face ninety degrees from the target. On the first whistle, the applicant shall place the applicant's hand on the holstered firearm, pivot to face down range, identify the target, draw, and fire two rounds to the chest area of the target. On command, the applicant shall holster the firearm, turn right, and make ready. On the second whistle, the applicant shall repeat the above sequence. On command, the applicant shall turn to the applicant's left and face ninety degrees from the target. On the third whistle, the applicant shall place the applicant's hand on the firearm, pivot to face down range, identify the target, draw, and fire two rounds to the chest area of the target. On command, the applicant shall holster the firearm, turn left, and make ready. On the fourth whistle, the applicant shall repeat the above sequence. The applicant shall then unload and holster the firearm and stand with hands behind the applicant's back.

(E) PHASE 5

Distance: Fifteen-yard line

Time allotted: Sixty-five seconds with the starting time on the first whistle and cease firing on the second whistle.

Rounds: Fifteen rounds

Positions: Standing behind cover, alternating right and left side cover

Reloading: Shooter reloads as needed per firearm used. Reloading is part of the time allowed.

At the fifteen-yard line, the applicant shall have a fully loaded firearm holstered. On the first whistle, the applicant shall side step behind cover, draw the firearm, and fire five rounds standing from the right side of cover, re-loading as needed. The applicant shall then shift to the left side of cover and fire five rounds from the left side. The applicant shall then shift back to the right side of cover and fire five rounds from the right side again. The applicant shall reload as needed according to the weapon type. When the applicant completes this phase, the applicant shall unload and holster the firearm and stand with hands behind the applicant's back facing down range behind cover.

- (27) To pass the shooting course, the applicant must fire exactly forty-three rounds, and each of the forty-three rounds must strike the black silhouette area of the target, and no less than forty rounds must strike within the 5X scoring area ("coke bottle"). If any round strikes outside of the black silhouette area, the applicant shall fail the course.
- (28) The applicant must pass the shooting course within two attempts. The second attempt must be completed within forty-five days after the first attempt. If the applicant fails the both attempts, the applicant may not reapply for certification for one calendar year after the date of the second attempt.
- (29) The firearm certification program may be given by any certified law enforcement firearms trainer authorized by the attorney general. (Auth: Memorandum of Understanding Dated: 9/17/14) (Imp: 18 U.S.C. § 926C)

(27) Summary of firearm certification shooting course

PHASE	YARD LINE	ROUNDS	SEQUENCE	TIME	REMARKS	REPETITIONS	TOTAL RDS
1	3	2	Draw & fire 2 rds chest	2.5 sec	Standing	3x	6
2	5	2	Fire 2 rds from the ready	2.5 sec	Support hand only	3x	6
3	5	2	Draw & fire 2 rds chest	3.5 sec	Standing natural point	4x	8
4	7	2	Draw & fire 2 rds chest	4 sec	Standing natural point	4x	8
5	15	15	Draw and fire 15 rds chest	65 sec	Standing behind cover 5 rds right of barricade 5 rds left of barricade and 5 rds right of barricade again	1x	15

Sample of B-21 Silhouette target



SECTION 2

APPLICATIONS

§2-1 Application for state firearm certification.

- (a) Each applicant applying for a state firearm certification shall complete and file an application with the attorney general, criminal justice division. A completed application shall include:
- (1) A medical examination, performed by a licensed Hawaii physician, is required with the initial application for certification and every two years after the initial certification. The physician must certify using an approved Medical Examination form that the applicant, in the applicant's current physical condition, is capable of carrying and using a concealed firearm in order for the applicant to participate in certification testing.
 - (2) A completed application shall include but is not limited to the following information:
 - (A) The applicant's name;
 - (B) The applicant's date of birth;
 - (C) The applicant's place of birth;
 - (D) The last four digits of applicant's social security number;
 - (E) The applicant's email address;
 - (F) The applicant's citizenship information;
 - (G) The applicant's home address and home phone number;
 - (H) The applicant's cellular phone number;
 - (I) The applicant's employer and business phone number;
 - (J) The public law enforcement agency from which the applicant separated, and relevant job related information; and
 - (K) The make and model of the firearm the applicant intends to be certified for;
 - (L) If applicable, the applicant's medical marijuana card number and the issuing state;
 - (3) Two color copies of the photographic identification from the public law enforcement agency the applicant separated from (copies to be of both sides if the identification is two-sided);

- (4) A copy of the current Hawaii registration form for the firearm the applicant intends to carry concealed;
 - (5) A completed questionnaire with the applicant's signature;
 - (6) A completed consent to release confidential information and authorizing access to confidential information and records with the applicant's signature, notarized prior to submission to the attorney general;
 - (7) A completed waiver authorizing access to mental health substance abuse records with the applicant's signature;
 - (8) Two passport-sized color photos with solid light colored background (to be used for the applicant's firearm certification identification card);
 - (9) Five blank letter sized envelopes (#10) with the appropriate first-class prepaid postage (do not fill in address or return area);
 - (10) One letter sized envelope (#10) addressed to applicant with certified, return receipt postage prepaid;
 - (11) A completed and signed questionnaire from the public law enforcement agency the applicant separated from;
 - (12) Any other information deemed material and relevant by the State of Hawaii attorney general; and
 - (13) If submitting from Kauai, Maui, Hilo, or Kona, also submit one 9 x 13 inch self-addressed, postage prepaid envelope addressed to the "Department of the Attorney General, State of Hawaii, Criminal Justice Division, 425 Queen Street, Honolulu, Hawaii 96813" (Do not fill in the return address area).
- (b) Each applicant who meets all qualifications of certification may be issued a firearm certification identification card that shall contain the following information:
- (1) The applicant's name;
 - (2) A color photograph of the applicant;
 - (3) The public law enforcement agency the applicant separated from;
 - (4) The date of issuance of the identification card;

- (5) The date of expiration of the identification card;
 - (6) The make and model of the concealed carry firearm;
 - (7) The signature of the attorney general; and
 - (8) Any other relevant information deemed material by the attorney general.
- (c) All firearm certification identification cards issued pursuant to this rule shall remain the property of the State and shall be effective for one year from date of issuance and shall be returned after the expiration or immediately upon written request by the attorney general. (Auth: Memorandum of Understanding Dated: 9/17/14) (Imp: 18 U.S.C. § 926C)

SECTION 3

FEES

§3-1 Fees. All costs and fees related to firearm certification under this rule, including the classroom and shooting course, shall be paid by the applicant and shall be nonrefundable.
Auth: Memorandum of Understanding Dated: 9/17/14) (Imp: 18 U.S.C. § 926C)

SECTION 4

DISCIPLINARY SANCTIONS

§4-1 Firearm certification requirements; compliance with state and federal laws. Certified qualified retired law enforcement officers must follow all Hawaii firearms laws that apply to civilians who are not law enforcement officers, including chapter 134, Hawaii Revised Statutes. Certified qualified retired law enforcement officers must follow all Hawaii use of force laws that apply to civilians who are not law enforcement officers, including chapter 703, Hawaii Revised Statutes. Neither 18 United States Code section 926C nor Hawaii law authorizes qualified retired law enforcement officers to act as law enforcement officers in Hawaii. (Auth: Memorandum of Understanding Dated: 9/17/14) (Imp: 18 U.S.C. § 926C)

§4-2 Firearm certification requirements; revocation of firearm certification for violation of 18 U.S.C. § 926C(c)(6). (a) Because the federal law, 18 U.S.C. § 926C(c), provides that "qualified retired law enforcement officer" means, in relevant part, "an individual who . . . is not under the influence of alcohol or another intoxicating or hallucinatory drug or substance", a certified qualified retired law enforcement officer who has any amount of alcohol or another intoxicating or hallucinatory drug or substance in the blood or breath while carrying a concealed firearm is not a "qualified retired law enforcement officer" and shall immediately surrender the certified qualified retired law enforcement officer's State of Hawaii firearm certification card to a duly sworn law enforcement officer or the attorney general or the attorney general's designee. The certified qualified retired law enforcement officer may be subject to seizure of firearm, arrest, and prosecution. (b) The State of Hawaii firearm certification card of a certified qualified retired law enforcement officer who refuses to submit to a blood or breath test when requested to do so by a law enforcement officer shall be revoked immediately. (Auth: Memorandum of Understanding Dated: 9/17/14) (Imp: 18 U.S.C. § 926C)

SECTION 5

GROUND FOR REFUSAL

§5-1 Grounds for refusal to renew, reinstate, or restore, and for revocation, suspension, or denial of certifications. In addition to any other acts or conditions provided by law, the attorney general may refuse to renew, reinstate, or restore, or may revoke, suspend, or deny, a certification of any applicant who violates any of the provisions of the rule, including but not limited to the following:

- (1) Failing to meet and sustain the conditions and requirements necessary to maintain certification;
- (2) Submitting an application for a new certification, renewed certification, or reinstatement of a suspended certification that contains a false statement, an omission of fact, or a substantial misstatement;

- (3) Failing to maintain a residence address in the State while certified;
- (4) Allowing the certification to be used deceptively, fraudulently, or in false or misleading advertising, or making untruthful or improbable statements;
- (5) Being addicted to, dependent on, or a user of a narcotic, barbiturate, amphetamine, hallucinogen, opium, or cocaine, or other drugs or derivatives of a similar nature, including, but not limited to, the use of marijuana, even if pursuant to a valid medical marijuana card;
- (6) Using or carrying a firearm while the ability to use or carry a firearm is impaired by alcohol, drugs, mental instability, or substantially impaired by physical disability;
- (7) Procuring a certification through fraud, misrepresentation or deceit;
- (8) Failure to comply with, observe, or adhere to any law in a manner such that the attorney general deems the holder of a certification to be unfit or an improper person to hold a certification;
- (9) Criminal conviction, whether by nolo contendere or otherwise, of a crime related to the qualifications or functions of certification; or
- (10) Violating this rule or the applicable laws governing the certification and firearms or any rule or order of the attorney general.
(Auth: Memorandum of Understanding Dated: 9/17/14) (Imp: 18 U.S.C. § 926C)

DEPARTMENT OF THE ATTORNEY GENERAL

The adoption of the above-referenced Interim Internal Management Regulations shall take effect upon approval by the Attorney General.

APPROVED:



Attorney General

Dated: OCT 28 2014

APPROVED AS TO FORM:



Deputy Attorney General

OCT 28 2014
Adopted