



Law Enforcement, Correction, and Retiree Exemption from Illinois Assault Weapons Ban

The “Protect Illinois Communities Act” (Public Act 102-1116) makes the possession, sale, manufacture, import, delivery or purchase of certain “assault weapons” and attachments illegal, as well as .50 caliber rifles and cartridges.¹

However, there is an exception for law enforcement and some law enforcement retirees.

Sub-section (e) of 720 § 5/24-1.9 states:

(e) The provisions of this Section regarding the purchase or possession of assault weapons, assault weapon attachments, .50 caliber rifles, and .50 cartridges, as well as the provisions of this Section that prohibit causing those items to be purchased or possessed, **do not apply to:**

(1) **Peace officers**, as defined in Section 2-13 of this Code.

(2) **Qualified law enforcement officers** and **qualified retired law enforcement officers** as defined in the Law Enforcement Officers Safety Act of 2004 (18 U.S.C. 926B and 926C) and as recognized under Illinois law.

So, how are each of these terms defined?

Peace Officers

This is the broad definition for all sworn officers in the state, including federal officers:

“any person who by virtue of his office or public employment is vested by law with a duty to maintain public order or to make arrests for offenses, whether that duty extends to all offenses or is limited to specific offenses, or (ii) any person who, by statute, is granted and authorized to exercise

¹ IL ST CH 720 § 5/24-1.9

powers similar to those conferred upon any peace officer employed by a law enforcement agency of this State.”

This would cover virtually every police officer in the state

Qualified Law Enforcement Officers

Under current state law, this definition applies to all sworn officers, as well as all **state and county correctional officers**:

(c) As used in this section, the term “qualified law enforcement officer” means an employee of a governmental agency who--

(1) 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);

(2) is authorized by the agency to carry a firearm;

(3) is not the subject of any disciplinary action by the agency which could result in suspension or loss of police powers;

(4) meets standards, if any, established by the agency which require the employee to regularly qualify in the use of a firearm;

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

(6) is not prohibited by Federal law from receiving a firearm.²

This section has also been amended to include Correctional Officers in Illinois, whether they be State³ or County.⁴

Qualified Retired Law Enforcement Officer

The exception for Qualified Retired Law Enforcement Officers refers to the LEOSA definition of that term, meaning it’s the same definition/requirements that are required to obtain an IROCC license. Also note, this also applies to retired correctional officers, whether they are state or county.

(c) As used in this section, the term “qualified retired law enforcement officer” means an individual who--

² 18 USCA § 926B

³ IL ST CH 730 § 5/3-2-14

⁴ 730 ILCS 125/26.1

- (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)(A) before such separation, served as a law enforcement officer for an aggregate of 10 years or more; or
- (B) 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) during the most recent 12-month period, has met, at the expense of the individual, the standards for qualification in firearms training for active law enforcement officers, as determined by the former agency of the individual, the State in which the individual resides or, if the State has not established such standards, either a law enforcement agency within the State in which the individual resides or the standards used by a certified firearms instructor that is qualified to conduct a firearms qualification test for active duty officers within that State;
- (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 the photographic identification as described in subsection (d)(1); or
- (B) 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 and for those reasons will not receive or accept the photographic identification as described in subsection (d)(1);
- (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.

§ 926C. Carrying of concealed firearms by qualified retired law enforcement officers, 18 USCA § 926C

Gray Area for Retirees

The Illinois Weapons ban does not apply to “Qualified Retired Law Enforcement Officers” as **defined** in LEOSA. That means that in order to be exempt from the Weapons Ban, you must meet the above definitions but it doesn’t necessarily mean you have to currently possess an IROCC license.

Practically, most former Officers and COs who meet the definition of “Qualified Retired Law Enforcement Officers” already possess and maintain an IROCC license. But the law does not require you to possess such a license, just meet the qualifications for one.

That being said, there is also a gray area about the first requirement of the definition:

“separated from service in good standing from service with a public agency as a law enforcement officer;”

It is easy to meet and prove this requirement for IROCC purposes, since typically you would need a former chief/sheriff/director etc. to sign off on your application attesting you left in good standing.

But for purposes of the exception to the Assault Weapons Ban, it is more difficult to “prove” that you meet all of the above requirement if you don’t possess an IROCC license- and you would probably not want to take the chance of having to explain yourself later. Therefore while the law technically allows you to possess these soon-to-be banned weapons without an IROCC license, it is advisable to obtain one.

Current Legal Status of “Protect Illinois Communities Act”

The Illinois Supreme Court upheld the constitutionality of the “Protect Illinois Communities Act” in *Caulkins v. Pritzker* (2023 WL 5156850 (Ill., 2023)). Plaintiffs have also filed suit in Federal Court (*Barnett v. Raoul*, 2023 WL 3160285 (S.D.Ill., 2023)), with arguments set to be heard next by the Seventh Circuit Court of Appeals. The U.S. Supreme Court declined to issue an injunction preventing implementation of the Act prior to the Seventh Circuit’s decision.

Meaning: it is a virtual certainty that the “possession” portion of the law will go into effect January 1, 2024, and await final disposition by the Federal Court system.