



Michael J. O'Neill

Bill Analysis
Legislative Service Commission

H.B. 526
123rd General Assembly
(As Introduced)

Rep. Womer Benjamin

BILL SUMMARY

- Creates the offense of "improper storage of firearms" that prohibits a person from negligently storing a loaded firearm in a manner that, and in a location where, a minor is likely to gain access to the loaded firearm in specified circumstances.
- Requires that a federally licensed firearms dealer, at the time of sale of a firearm, offer for sale to the purchaser of the firearm a trigger lock, gun lock, or gun locking device appropriate for that firearm.
- Requires the Office of Criminal Justice Services to prepare a brochure that summarizes the above-described provisions that regulate the safe storage of firearms and to furnish copies of the brochure free of charge to each federally licensed firearms dealer in Ohio.

CONTENT AND OPERATION

Operation of the bill

Improper storage of firearms

Prohibition and penalty. The bill enacts a new offense called "improper storage of firearms." The bill prohibits a person from negligently storing a loaded firearm in a manner that, and in a location where, a minor is likely to gain access to the loaded firearm in circumstances in which all of the following apply (R.C. 2923.24(B)):

(1) The minor is outside of the physical presence of the minor's parent, spouse who is 18 years of age or older, or legal guardian.

(2) The minor does not have the lawful permission of the minor's parent, spouse who is 18 years of age or older, or legal guardian to gain access to the firearm.

(3) The minor is without the supervision or control of a person who is 18 years of age or older.

A person who violates this prohibition is guilty of improper storage of firearms. If a minor gains access to and possesses a loaded firearm stored in violation of the prohibition, improper storage of firearms is a misdemeanor of the third degree. If a minor gains access to and possesses a loaded firearm stored in violation of the prohibition and if any person suffers serious physical harm or death as a result of the minor's discharge of the firearm, improper storage of firearms is a felony of the fifth degree. (R.C. 2923.24(D).)

Limitations. The prohibition does not apply to any of the following circumstances (R.C. 2923.24(C)):

(1) The person who owns or has possession of the firearm kept the firearm in a securely locked box or container.

(2) The person who owns or has possession of the firearm kept the firearm in a location where a reasonable person would believe the firearm is secure from a minor.

(3) The person who owns or has possession of the firearm secured the firearm with a trigger lock, gun lock, or gun locking device.

The bill also provides that no person may be charged with involuntary manslaughter based on a violation of the prohibition (R.C. 2923.24(E)) (see **COMMENT**).

Federally licensed firearms dealers

Under the bill, a federally licensed firearms dealer, at the time of sale of a firearm, must offer for sale to the purchaser of the firearm a trigger lock, gun lock, or gun locking device appropriate for that firearm (R.C. 2923.25).

Duties of the office of criminal justice services

The bill also requires the Office of Criminal Justice Services to prepare a brochure that contains typeface that is at least one-quarter inch tall and that summarizes the provisions described above under "**Improper storage of firearms**" and "**Federally licensed firearms dealers**" that regulate the safe storage of

firearms. The bill also requires the Office to furnish copies of the brochure free of charge to each federally licensed firearms dealer in Ohio. (R.C. 181.52(B)(15).)

Existing firearms laws relating to minors

Improperly furnishing firearms to a minor

R.C. 2923.21 contains several prohibitions relating to selling or furnishing a firearm to a person under 18 years of age. The section prohibits a person from doing any of the following:

- (1) Selling any firearm to a person who is under 18 years of age;
- (2) Furnishing any firearm to a person who is under 18 years of age, except for lawful hunting, sporting, or educational purposes, including, but not limited to, instruction in firearms or handgun safety, care, handling, or marksmanship under the supervision or control of a responsible adult;
- (3) Selling or furnishing a firearm to a person who is 18 years of age or older if the seller or furnisher knows, or has reason to know, that the person is purchasing or receiving the firearm for the purpose of selling the firearm in violation of paragraph (1).

A person who violates any of these prohibitions is guilty of improperly furnishing firearms to a minor, a felony of the fifth degree. (R.C. 2923.21.)

Endangering children

R.C. 2919.22 contains a number of prohibitions relating to the harm of children in a person's care. Although not explicitly related to firearms, R.C. 2919.22(A) possibly could apply in improper firearms storage cases. R.C. 2919.22(A) prohibits a person, who is the parent, guardian, custodian, person having custody or control, or person in loco parentis of a child under 18 years of age or a mentally or physically handicapped child under 21 years of age, from creating a substantial risk to the health or safety of the child, by violating a duty of care, protection, or support.

A person who violates this prohibition is guilty of endangering children. Generally, the violation is a misdemeanor of the first degree. If the offender previously has been convicted of endangering children or of any offense involving neglect, abandonment, contributing to the delinquency of, or physical abuse of a child, except as otherwise provided in the next sentence, the violation is a felony of the fourth degree. If the violation results in serious physical harm to the child

involved, the violation is a felony of the third degree. (R.C. 2919.22(E)(1) and (2).)

Underage purchase of firearm

R.C. 2923.211 prohibits a person under 18 years of age from purchasing or attempting to purchase a firearm. A person who violates this prohibition is guilty of underage purchase of a firearm, is a delinquent child, and is subject to an order of disposition as a delinquent child. (R.C. 2923.211(A) and (C).)

Hunting Law

The Hunting Law prohibits a person under 16 years of age from engaging in hunting unless accompanied by the person's parent or another adult person (R.C. 1533.13). A child who violates this prohibition is an unruly child (R.C. 2151.022(G)).

Definitions

"Deadly weapon"

As used in the Weapons Control Law, "deadly weapon" means any instrument, device, or thing capable of inflicting death, and designed or specially adapted for use as a weapon, or possessed, carried, or used as a weapon (R.C. 2923.11(A)).

"Firearm"

As used in the Weapons Control Law, "firearm" means any deadly weapon capable of expelling or propelling one or more projectiles by the action of an explosive or combustible propellant. "Firearm" includes an unloaded firearm, and any firearm that is inoperable but that can readily be rendered operable. When determining whether a firearm is capable of expelling or propelling one or more projectiles by the action of an explosive or combustible propellant, the trier of fact may rely upon circumstantial evidence, including, but not limited to, the representations and actions of the individual exercising control over the firearm. (R.C. 2923.11(B).)

"Federally licensed firearms dealer"

As used in the Weapons Control Law, "federally licensed firearms dealer" means an importer, manufacturer, or dealer having a license to deal in destructive devices or their ammunition, issued and in effect pursuant to the "Gun Control Act of 1968," 82 Stat. 1213, 18 U.S.C. 923, and any amendments or additions to that act or reenactments of that act. (R.C. 2923.11(N).)

"Loaded firearm"

As used in the offense of improper storage of firearms, "loaded firearm" includes an unloaded firearm for which ammunition is ready at hand (R.C. 2923.24(A)).

"Retail"

As used in the Weapons Control Law, "retail" means to dispose of specific goods to, or to acquire specific goods by, a person for use other than for purposes of resale (R.C. 2923.11(O) by reference to R.C. 1317.01--not in the bill).

COMMENT

R.C. 2903.04 sets forth the offense of involuntary manslaughter and prohibits a person from causing the death of another or the unlawful termination of another's pregnancy as a proximate result of the offender's committing or attempting to commit a felony or a classified misdemeanor. A person who violates this prohibition is guilty of involuntary manslaughter. If the underlying offense is a felony, the violation is a felony of the first degree. If the underlying offense is a classified misdemeanor, the violation is a felony of the third degree. If the underlying offense included, as an element of that offense, the offender's operation or participation in the operation of certain vehicles while the offender was under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, additional penalties apply.

HISTORY

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Introduced	12-28-99	p. 1471

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