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BILL SUMMARY

- Specifies requirements for eligibility for a license to carry a concealed handgun and methods by which an applicant may establish competence in handling a handgun.
- Sets forth a form for an application for a license to carry a concealed handgun.
- Requires the Ohio Peace Officer Training Commission to prescribe application forms and license forms, and to prescribe a fee not to exceed \$25, for a license to carry a concealed handgun and for a license renewal.
- Requires the sheriff receiving an application for a license to carry a concealed handgun to conduct a criminal records check of the applicant for the license.
- Specifies locations at which a concealed handgun licensee is not authorized to carry a concealed handgun.
- Specifies circumstances in which a concealed handgun licensee is exempt from certain prohibitions related to weapons.
- Establishes a new affirmative defense to the offense of carrying concealed weapons, the prohibition against transporting or having a

firearm in a vessel except under certain circumstances, and the offense of improperly handling firearms in a motor vehicle.

- Creates the offenses of falsification of a concealed handgun license, possessing a revoked or suspended concealed handgun license, and falsification to obtain a concealed handgun license.
- Contains a statement of legislative intent.
- Prohibits a municipal corporation from adopting or continuing in existence any ordinance, and a township from adopting or continuing in existence, any resolution that is in conflict with the bill's concealed handgun licensing scheme.

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CONTENT AND OPERATION

Overview

The bill establishes a program in which sheriffs are authorized to issue licenses to persons to carry concealed handguns.¹ The Ohio Peace Officer Training Commission (OPOTC) is required to adopt forms for the licensing program and to maintain records with respect to the licensing program.

¹ "Handgun" means any firearm designed to be fired while being held in one hand (R.C. 2923.11(C)).

Obtaining and renewing a license to carry a concealed handgun

Making the application

Upon the request of a person who wishes to obtain a license to carry a concealed handgun or to renew a license of that nature, a sheriff must provide to the person free of charge a copy of the application form prescribed by the OPOTC and a copy of the pamphlet containing the text of Ohio firearms laws prepared by the OPOTC (R.C. 2923.125(A)). The applicant must submit the completed application form and all of the following to the sheriff of the county in which the applicant resides (R.C. 2923.125(B)):

(1) A nonrefundable license fee in the amount prescribed by the OPOTC (up to \$25), except that the sheriff must waive the payment of the license fee in connection with an initial application for a license to carry a concealed handgun that is submitted by an applicant who is a retired peace officer, a retired park officer, forest officer, preserve officer, wildlife officer, or state watercraft officer of the Department of Natural Resources, or a retired federal law enforcement officer who, prior to retirement, was authorized under federal law to carry a firearm in the course of duty;

(2) A color photograph of the applicant that was taken within 30 days prior to the date of the application;

(3) One or more of the following competency certifications:

(a) An original or photocopy of a certificate of completion of a firearms safety, training, or requalification course, class, or program that was offered by or under the auspices of the National Rifle Association;

(b) An original or photocopy of a certificate of completion of a firearms safety, training, or requalification course, class, or program that was open to members of the general public, that utilized qualified instructors who were certified by the National Rifle Association, the Executive Director of OPOTC, or a governmental official or entity of another state, and that was offered by or under the auspices of a law enforcement agency of Ohio, another state, or the United States, a public or private college, university, or other similar post-secondary educational institution located in Ohio or another state, a firearms training school located in Ohio or another state, or another type of public or private entity or organization located in Ohio or another state;

(c) An original or photocopy of a certificate of completion of a state, county, municipal, or Department of Natural Resources peace officer training school approved by the Executive Director of OPOTC, or the applicant has



satisfactorily completed and been issued a certificate of completion of a basic firearms training program, a firearms requalification training program, or another basic training program described in R.C. 109.78 or 109.801;

(d) A document that evidences both of the following: (i) that the applicant is an active or reserve member of the armed forces of the United States, was honorably discharged from military service in the active or reserve armed forces of the United States, has participated in organized shooting competitions, or has held a valid hunting license in this state or another state for a period of not less than three years, (ii) that, through participation in that military service, shooting competitions, or hunting activity, the applicant acquired experience with handling handguns or other firearms, and the experience so acquired was equivalent to training that the applicant could have acquired in a course, class, or program described above in the paragraphs (3)(a), (b), or (c);

(e) A certificate or another similar document that evidences satisfactory completion of a firearms training, safety, or requalification course, class, or program that is not otherwise described above in paragraphs (3)(a), (b), (c), or (d) and that was conducted by an instructor who was certified by an official or entity of the government of Ohio, another state, or the United States or by the National Rifle Association;

(f) An affidavit that attests to the applicant's satisfactory completion of a course, class, or program described above in paragraph (3)(a), (b), (c), or (e) and that is subscribed by the applicant's instructor or an authorized representative of the entity that offered the course, class, or program or under whose auspices the course, class, or program was offered;

(g) A valid license to carry a handgun in Ohio or in a county or municipal corporation of Ohio, other than a license issued under the bill, that was or is issued prior to, on, or after the effective date of the bill and has not been revoked for cause.

Criminal records check

Upon receipt of an applicant's completed application form and the supporting documentation and, if not waived, license fee, a sheriff must conduct or cause to be conducted a criminal records check of the applicant in the following manner (R.C. 311.41(A) and 2923.125(C)):

(1) The sheriff or the sheriff's designee must obtain fingerprints of four fingers of the applicant using an electronic fingerprint reading device.

(2) Using the law enforcement automated data system (LEADS), the sheriff must access the Automated Fingerprint Index System (AFIS) within the Bureau of Criminal Identification and Investigation (BCII) to determine whether BCII has any information that indicates that the applicant fails to meet the eligibility criteria for a license to carry a concealed handgun.

If, after conducting the criminal records check, the sheriff concludes that no information was found that may be relevant to the sheriff's determination of whether the applicant fails to meet the eligibility criteria, the sheriff must destroy or cause a designated employee to destroy all records that were made in connection with the criminal records check within 20 days after conducting the criminal records check. When required as described in "**Procedure for contesting the denial of a license based on criminal records check**," below, the Superintendent of BCII must destroy or the Superintendent must cause a designated BCII employee to destroy all records that were made in connection with the criminal records check within the 20-day period. (R.C. 311.41(B).)

With respect to a particular criminal records check, the bill prohibits a sheriff, employee of a sheriff designated by the sheriff to destroy records, the Superintendent of BCII, or BCII employee designated to destroy records from failing to destroy or cause to be destroyed within the applicable 20-day period all records made in connection with the particular criminal records check. A person who violates this prohibition is guilty of failure to destroy records, a felony of the fourth degree. (R.C. 311.41(C) and (D).)

When license must be issued

Except as specified below, within 45 days after receipt of an applicant's completed application form and the supporting documentation and, if not waived, license fee, a sheriff must issue the requested license to the applicant if all of the following apply (R.C. 2923.125(D)(1)):

(1) The sheriff concludes that no information was found during the criminal records check that may be relevant to the sheriff's determination of whether the applicant is eligible to be licensed to carry a concealed handgun.

(2) The applicant has been a resident of Ohio for at least 60 days and a resident of the county in which the sheriff who is to issue the license has jurisdiction for at least 30 days.

(3) The applicant is at least 21 years of age.

(4) The applicant is not a fugitive from justice.²

(5) The applicant is not under indictment for, has been convicted of, and has not pleaded guilty to a felony and has not been adjudicated a delinquent child for an act that would be a felony if committed by an adult.

(6) The applicant is not under indictment for or otherwise charged with, has not been convicted of, and has not pleaded guilty to an offense under the Drug Abuse Law that involves the illegal possession, use, sale, administration, or trafficking in a drug of abuse and has not been adjudicated a delinquent child for an act that would be an offense of that nature if committed by an adult.

(7) The applicant is not under indictment for or otherwise charged with a misdemeanor that is an offense of violence or that is a misdemeanor violation of the new offense of possessing a revoked or suspended handgun license (see "Offenses with respect to licenses -- Possessing a revoked or suspended concealed handgun license," below), has not been convicted of or pleaded guilty to a misdemeanor of that nature within three years of the date of the application, and has not been adjudicated a delinquent child within three years of the date of the application for an act that would be a misdemeanor of that nature.³

² The "fugitive from justice" requirement does not apply to an applicant in relation to any non-felony violation of Chapter 4511. (traffic laws--operation of motor vehicles) or 4513. (traffic laws--equipment loads) of the Revised Code or any non-felony violation of any ordinance, resolution, or regulation enacted by a political subdivision pursuant to R.C. 4511.07 (local traffic regulations) or Chapter 4521. (local non-criminal parking infractions) of the Revised Code.

³ "Offense of violence," as defined in existing law (R.C. 2901.01(A)(9)), means any of the following offenses:

(a) Aggravated murder, murder, voluntary manslaughter, involuntary manslaughter, felonious assault, aggravated assault, assault (a misdemeanor unless certain conditions are met), aggravated menacing (misdemeanor), menacing by stalking (a misdemeanor unless the offender previously was convicted of menacing by stalking the same victim), menacing (misdemeanor), kidnapping, abduction, extortion, rape, sexual battery, gross sexual imposition, aggravated arson, arson (a misdemeanor under certain circumstances), aggravated robbery, robbery, aggravated burglary, burglary under certain circumstances, inciting to violence, aggravated riot, riot (misdemeanor), inducing panic (a misdemeanor except when the violation results in physical harm to a person), domestic violence (a misdemeanor unless the offender previously was convicted of domestic violence or certain assault or stalking offenses involving a household member), intimidation, intimidation of crime victim or witness (a misdemeanor under certain circumstances), escape (a misdemeanor under certain circumstances), and improperly

(8) The applicant is not under an adjudication of mental incompetence and must not have been involuntarily institutionalized (see **COMMENT**).

(9) The applicant desires a legal means to carry a concealed handgun for defense of the applicant or a member of the applicant's family while engaged in lawful activity.

(10) The applicant submits a competency certification of the type described above under paragraph (3) of "**Making the application.**"

Denial of application--generally

If the sheriff denies an application because the applicant does not satisfy the bill's requirements, the sheriff must specify the grounds for the denial in a written notice to the applicant and, if applicable, must comply with the procedure described in "**Denial of license for reasons not based on criminal records check,**" below (R.C. 2923.125(D)(2)).

Suspension of the application process

If the sheriff with whom an application for a license to carry a concealed handgun was filed becomes aware that the applicant has been arrested for or otherwise charged with an offense that would disqualify the applicant from holding the license, the sheriff must suspend the processing of the application until the disposition of the case arising from the arrest or charge (R.C. 2923.125(D)(3)).

Denial of license for reasons not based on criminal records check

If a sheriff determines that an applicant for a license does not satisfy the licensure requirements for reasons not based on the criminal records check, the sheriff must file a petition in the court of common pleas of the sheriff's county that

discharging a firearm at or into a habitation or school, and the former offense of felonious sexual penetration;

(b) A violation of an existing or former municipal ordinance or law of Ohio, any other state, or the United States, substantially equivalent to any offense listed in (a);

(c) An offense, other than a traffic offense, under an existing or former municipal ordinance or law of Ohio, any other state, or the United States, committed purposely or knowingly, and involving physical harm to persons or a risk of serious physical harm to persons;

(d) A conspiracy or attempt to commit, or complicity in committing, any offense described in (a), (b), or (c).

requests the court to do both of the following: (1) review the applicant's application and supporting documentation and other relevant information that the sheriff submits and that was acquired in connection with the application and (2) authorize the sheriff to deny the requested license.

If the court determines that the sheriff established by clear and convincing evidence that the applicant does not satisfy the bill's requirements for reasons other than the criminal records check, the court must authorize the sheriff to deny the requested license. If the court determines that the sheriff has not sustained that burden of proof, it must order the sheriff to issue the requested license. (R.C. 2923.125(D)(4).)

Replacement of lost or destroyed license

If a license to carry a concealed handgun is lost and not recovered by the licensee or is destroyed, the licensee may obtain from the sheriff who issued that license a duplicate license upon the payment of \$15 and the submission of an affidavit attesting to the loss or destruction of the license. (R.C. 2923.125(E) and (G).)

License renewal

A licensee who wishes to renew a license to carry a concealed handgun must do so on or before the expiration date of the license by filing with the sheriff of the county in which the applicant resides an application for renewal of the license (obtained from the sheriff), a new color photograph of the licensee that was taken within 30 days prior to the date of the renewal application, and a nonrefundable license renewal fee in the amount prescribed by the OPOTC (up to \$25). The licensee is not required to submit a new competency certificate.

Upon receipt of a completed renewal application, color photograph, and license renewal fee, a sheriff must conduct or cause to be conducted a criminal records check as described in "**Criminal records check**," above. The sheriff must renew the license if the sheriff determines that the applicant continues to satisfy the eligibility requirements. A renewed license is valid for four years from the date of issuance and is subject to the provisions described in "**Privileges and duties of a licensee**," above, and to the suspension and revocation provisions. When the circumstances described in "**Suspension of the application process**" and "**Denial of a license for reasons not based on criminal records check**," above, apply to a requested license renewal, the sheriff must comply with the requirements specified in those circumstances. (R.C. 2923.125(F).)

Privileges and duties of a licensee

A license to carry a concealed handgun is valid for four years from the date of issuance. Except in the places specified below, the licensee may carry a concealed handgun anywhere in Ohio if the licensee also carries a valid license and valid identification when the licensee is in actual possession of a concealed handgun. The licensee must give notice of any change in the licensee's residence address to the sheriff who issued the license within 45 days after that change. (R.C. 2923.126(A).)

A license to carry a concealed handgun does not authorize the licensee to carry a concealed handgun as follows (R.C. 2923.126(B)):

(1) Into a police station, sheriff's office, state highway patrol station, state correctional institution, jail, workhouse, other detention facility, or airport passenger terminal;

(2) A school safety zone, in violation of the prohibition against illegal conveyance or possession of a deadly weapon or dangerous ordnance in a school safety zone;

(3) Into a courthouse or another building or structure in which a courtroom is located, in violation of the prohibition against illegal conveyance of a deadly weapon or dangerous ordnance into a courthouse or illegal possession or control of a deadly weapon or dangerous ordnance in a courthouse;

(4) Into a place in which federal law prohibits the carrying of handguns.

The bill authorizes a person who holds a license to carry a concealed handgun that was issued pursuant to the law of another state to carry a concealed handgun in Ohio subject to Ohio law (R.C. 2923.126(C)).

Procedure for contesting the denial of a license based on criminal records check

If a sheriff denies an application for a license to carry a concealed handgun or denies the renewal of a license as a result of information reported by BCII to a sheriff during the criminal records check and if the applicant believes the denial was based on incorrect information reported by BCII, the applicant may file a written request with the Superintendent requesting BCII to conduct another criminal records check with respect to the applicant, to correct all erroneous information in BCII records that relates to the applicant and that may be relevant to a sheriff's determination as to the applicant's eligibility for a license to carry a concealed handgun, and to transmit that corrected information to the sheriff. If BCII fails to perform those functions within 14 days or denies the applicant's request, the applicant may file in the court of common pleas of the applicant's

county of residence a complaint that requests the court to order BCII to perform those functions. If the court determines that the applicant established by clear and convincing evidence that BCII's records contain erroneous information that relates to the applicant and that may be relevant to a sheriff's determination as to the applicant's eligibility for a license, that the erroneous information should be corrected, and that BCII's records as so corrected and the criminal records check otherwise contained no information that may be relevant to a sheriff's determination as to the applicant's eligibility for a license, the court must order BCII to perform the requested functions. If a court order of that nature is entered, within 20 days after BCII transmits corrected information to the sheriff who denied the issuance or renewal of the license, the provisions for the destruction of records described in "Criminal records check," above, apply to the Superintendent or a BCII employee designated by the Superintendent. (R.C. 2923.127.)

Suspension and revocation of license

Suspension of a license

If a licensee holding a valid license is arrested for or otherwise charged with a felony, a misdemeanor that is an offense of violence, the new offense of falsification of a concealed handgun license or possessing a revoked or suspended concealed handgun license, the offense of using weapons while intoxicated, or a felony drug abuse offense described in "When license must be issued," above, the sheriff who issued the license must suspend it and comply with the following paragraph upon becoming aware of the arrest or charge.

Upon becoming aware of an arrest or charge as described in the preceding paragraph, the sheriff who issued the license must notify the licensee, by certified mail, return receipt requested, at the licensee's last known residence address that the license has been suspended and that the licensee must surrender the license at the sheriff's office within ten days of the date on which the notice was mailed.

A suspension is to be considered as beginning on the date that the licensee is arrested for or otherwise charged with one of the specified offenses, irrespective of when the sheriff notifies the licensee of the suspension. The suspension ends on the date on which the charges are dismissed or the licensee is found not guilty of the offense. If the suspension so ends, the sheriff must return the license to the licensee. (R.C. 2923.128(A).)

Revocation of a license

A sheriff who issues a license to carry a concealed handgun must revoke the license upon becoming aware that the licensee satisfies any of the following (R.C. 2923.128(B)(1)):

(1) The licensee is under 21 years of age.

(2) At the time of the issuance of the license, the licensee did not satisfy the eligibility requirements described in (5), (6), or (7) in "**When license must be issued**," above.

(3) On or after the date on which the license was issued, the licensee is convicted of or pleads guilty to using weapons while intoxicated or an offense described in (5), (6), or (7) in "**When license must be issued**," above.

(4) The licensee knowingly carries a concealed handgun into a place that the licensee knows is an unauthorized place specified in "**Privileges and duties of a licensee**," above.

Upon becoming aware of any circumstance listed above, the sheriff who issued the license must notify the licensee, by certified mail, return receipt requested, at the licensee's last known residence address that the license is subject to revocation and that the licensee may come to the sheriff's office and contest the sheriff's proposed revocation within 14 days of the date on which the notice was mailed. After the 14-day period and after consideration of any information that the licensee provides during that period, if the sheriff determines on the basis of the information of which the sheriff is aware that the licensee satisfies any of the above circumstances and no longer meets the requirements for holding a license to carry a concealed handgun, the sheriff must revoke the license, notify the licensee of that fact, and require the licensee to surrender the license. (R.C. 2923.128(B)(2).)

Miscellaneous provisions relating to sheriff

Immunity of sheriff

If a sheriff makes a good faith effort in performing the duties imposed upon the sheriff by the bill, in addition to the personal immunity and the governmental immunity provided by the Political Subdivision Sovereign Immunity Law, the sheriff, the sheriff's office, and the county in which the sheriff has jurisdiction are immune from liability in a civil action for injury, death, or loss to person or property that allegedly was caused by or related to any of the following: (1) the issuance, renewal, suspension, or revocation of a license to carry a concealed handgun, (2) the failure to issue, renew, suspend, or revoke a license, or (3) any action or misconduct with a handgun committed by a licensee. The bill further provides that any action of a sheriff relating to the issuance, renewal, suspension, or revocation of a license to carry a concealed handgun is to be considered a governmental function for purposes of the Political Subdivision Sovereign Immunity Law. (R.C. 2923.129(A).)

Sheriff's licensure records are not public records

The records that a sheriff keeps relative to the issuance, renewal, suspension, or revocation of a license to carry a concealed handgun, including, but not limited to, reports of criminal records checks, are not public records (R.C. 2923.129(B)).

Reports to Ohio Peace Officer Training Commission

Under the bill, each sheriff must report to the OPOTC the number of licenses to carry a concealed handgun that the sheriff issued, renewed, suspended, revoked, or denied during the previous quarter of the calendar year and the number of applications for those licenses that were suspended during the previous quarter of the calendar year. The sheriff must report that information in a manner that permits OPOTC to maintain the statistics and to timely prepare the statistical report described below in "**Duties of the Ohio Peace Officer Training Commission**." (R.C. 2923.129(C).)

Concealed handgun fund

Each county must establish a concealed handgun fund in the county treasury, and the sheriff must deposit into that fund all fees paid by an applicant for the issuance or renewal of a license or a duplicate license to carry a concealed handgun. Moneys in the fund must be used to cover the sheriff's expenses in performing duties required by the bill. (R.C. 2923.129(D).)

Offenses with respect to licenses

Possessing a revoked or suspended concealed handgun license

The bill prohibits a person, except in the performance of official duties, from possessing a concealed handgun license that was issued and that has been revoked or suspended pursuant to the bill's provisions. A person who violates this prohibition is guilty of possessing a revoked or suspended concealed handgun license, a misdemeanor of the third degree. (R.C. 2923.1211(B) and (C).)

Falsification of a concealed handgun license

The bill prohibits a person from altering a license to carry a concealed handgun that was issued pursuant to its provisions and from creating a fictitious document that purports to be a license of that nature. A person who violates this prohibition is guilty of falsification of a concealed handgun license, a felony of the fifth degree. (R.C. 2923.1211(A) and (C).)

Falsification to obtain a concealed handgun license

Existing law--prohibitions and penalties. Existing law prohibits a person from knowingly making a false statement, or knowingly swearing or affirming the truth of a false statement previously made, in certain circumstances or in relation to certain types of documents, particularly official documents. Generally, a person who violates these prohibitions is guilty of falsification, a misdemeanor of the first degree. If the statement is made in connection with the purchase of a firearm and in conjunction with the furnishing to the seller of the firearm of a fictitious or altered driver's or commercial driver's license or permit, a fictitious or altered identification card, or any other document that contains false information about the purchaser's identity, the person is guilty of falsification to purchase a firearm, a felony of the fifth degree.

Existing law also prohibits a person, in connection with the purchase of a firearm, from knowingly furnishing to the seller of the firearm a fictitious or altered driver's or commercial driver's license or permit, a fictitious or altered identification card, or any other document that contains false information about the purchaser's identity. A person who violates this prohibition is guilty of falsification to purchase a firearm, a felony of the fifth degree. (R.C. 2921.13(A), (B), and (E).)

Existing law--civil liability. A person who violates any of the falsification prohibitions is liable in a civil action to any person harmed by the violation for injury, death, or loss to person or property incurred as a result of the commission of the offense and for reasonable attorney's fees, court costs, and other expenses incurred as a result of prosecuting the civil action. Existing law states that a civil action authorized in the falsification statute is not the exclusive remedy of a person who incurs injury, death, or loss to person or property as a result of a violation of a prohibition against falsification. (R.C. 2921.13(F).)

Operation of the bill. The bill adds two new prohibitions to the offense of falsification. First, it prohibits a person from knowingly making a false statement, or knowingly swearing or affirming the truth of a false statement previously made, when the statement is made in an application filed with a county sheriff in order to obtain or renew a license to carry a concealed handgun. Second, it prohibits a person, in an attempt to obtain a license to carry a concealed handgun, from knowingly presenting to a sheriff a fictitious or altered document that purports to be a certification of the person's competence in handling a handgun as described in paragraph (3) of "**Making the application,**" above. A person who violates either prohibition is guilty of falsification to obtain a concealed handgun license, a felony of the fifth degree. The existing provision regarding liability in a civil action applies also to the new falsification prohibitions. (R.C. 2921.13(A)(14), (C), (F)(4), and (G).)

Posting of signs in specified areas

The bill requires specified individuals or entities to post a sign that contains a statement indicating that the possession, control, conveyance, or attempt to convey a deadly weapon or dangerous ordnance onto specified premises is prohibited by Ohio law. For each of the specified types of premises, the sign must be posted in a conspicuous location on the premises. The following table describes the places where the sign must be placed and the individual or entity responsible for putting up the sign (R.C. 2923.1212):

Place	Individual or entity responsible for putting up sign
Police stations, municipal jails, and municipal courthouse and courtrooms	The Director of Public Safety or the person or board charged with the erection, maintenance, or repair of the premises
Sheriff's offices	The sheriff or the sheriff's designee
State highway patrol posts	The Superintendent of Highway Patrol or the Superintendent's designee
County, multicounty, municipal, municipal-county, or multicounty-municipal jails and workhouses, community-based correctional facilities, halfway houses, alternative residential facilities, and other state or local correctional institutions within Ohio	The sheriff, chief of police, or person in charge of the facility
Airport facilities	The board of trustees of a regional airport authority, chief administrative officer of an airport facility, or other person in charge of an airport facility
School premises, schools, school buildings, school activities, and school buses	The board of education, governing body, or designee or principal or chief administrative officer
Courthouses and buildings and structures in which courtrooms are located	The sheriff or the sheriff's designee

Duties of the Ohio Peace Officer Training Commission

Application and license forms

The bill requires the Ohio Peace Officer Training Commission (OPOTC) to prescribe, and to make available to sheriffs, both of the following (R.C. 109.731(A) and Section 5):

(1) An application form to be used by a person who applies for a license to carry a concealed handgun or for the renewal of a license of that nature and that conforms substantially to the form prescribed in the bill (R.C. 2923.1210, not reproduced in this analysis);

(2) A form for the license to carry a concealed handgun that is to be issued by sheriffs to persons who qualify for the license and that conforms to the following requirements:

(a) It has space for the licensee's full name, residence address, and date of birth and for a color photograph of the licensee.

(b) It has space for the date of issuance of the license, its expiration date, its county of issuance, and the name of the sheriff who issues the license.

(c) It has space for the signature of the licensee and the signature or a facsimile signature of the sheriff who issues the license.

(d) It does not require the licensee to include serial numbers of handguns, other identification related to handguns, or similar data that is not pertinent or relevant to obtaining the license and that could be used as a de facto means of registration of handguns owned by the licensee.

Firearms laws pamphlet

The bill further requires OPOTC to prepare a pamphlet that contains the text of Ohio firearms laws and to make copies of the pamphlet available to sheriffs for distribution to applicants for a license to carry a concealed handgun and applicants for the renewal of a license (R.C. 109.731(B) and Section 5).

License application and renewal fee

OPOTC must prescribe a fee to be paid by an applicant for a license to carry a concealed handgun in an amount that does not exceed \$25 and must specify the portion of the fee that will be used to pay each particular cost of the issuance of the license. OPOTC also must prescribe a fee to be paid by an applicant for the renewal of a license in an amount that does not exceed \$25 and

must specify the portion of the fee that will be used to pay each particular cost of the license renewal. (R.C. 109.731(C) and Section 5.)

Statistics and reports

In addition, the bill requires OPOTC to maintain statistics with respect to the issuance, renewal, suspension, revocation, and denial of licenses to carry a concealed handgun and the suspension of applications for those licenses as reported by sheriffs as described in "**Reports to Ohio Peace Officer Training Commission**," above. No later than the first day of March in each year, OPOTC must submit a statistical report to the Governor, the President of the Senate, and the Speaker of the House of Representatives indicating the number of those licenses that were issued, renewed, suspended, revoked, and denied in the previous calendar year and the number of applications for those licenses that were suspended in the previous calendar year. OPOTC must submit its first annual statistical report no later than 15 months after the effective date of the bill. (R.C. 109.731(D) and Section 5.)

Oversee compliance with the destruction of records requirement

OPOTC also must oversee compliance with the requirement for the destruction of records required in relation to the criminal records check (see "**Criminal records check**," above). OPOTC may adopt rules implementing procedures to be followed in relation to the destruction of those records and to ensure that the destruction requirements are followed. OPOTC may hire employees to make appropriate investigations to ensure that the destruction requirements are followed. County sheriffs are required to cooperate with any investigation of that nature and to give the employees access to all places and records in the sheriff's office related to those criminal records checks. (R.C. 109.731(E).)

Carrying a concealed weapon

Existing law

Prohibition. Existing law prohibits a person from knowingly carrying or having, concealed on the person's person or concealed ready at hand, any deadly weapon or dangerous ordnance (R.C. 2923.12(A)).

Penalty. A person who violates the prohibition is guilty of carrying concealed weapons, a misdemeanor of the first degree. If the offender previously has been convicted of a violation of carrying concealed weapons or of any offense of violence, if the weapon involved is a firearm that is either loaded or for which the offender has ammunition ready at hand, or if the weapon involved is dangerous

ordnance, carrying concealed weapons is a felony of the fourth degree. If the weapon involved is a firearm and the violation is committed at premises for which a D permit has been issued under the Liquor Control Law or if the offense is committed aboard an aircraft, or with purpose to carry a concealed weapon aboard an aircraft, regardless of the weapon involved, carrying concealed weapons is a felony of the third degree. (R.C. 2923.12(D).)

Exception. The prohibition does not apply to officers, agents, or employees of Ohio or any other state or the United States, or to law enforcement officers, authorized to carry concealed weapons or dangerous ordnance and acting within the scope of their duties (R.C. 2923.12(B)).

Affirmative defense. It is an affirmative defense to a charge of carrying or having control of a weapon other than dangerous ordnance that the actor was not otherwise prohibited by law from having the weapon and that any of the following applies (R.C. 2923.12(C)):

(1) The weapon was carried or kept ready at hand by the actor for defensive purposes while the actor was engaged in or was going to or from the actor's lawful business or occupation, which business or occupation was of a character or was necessarily carried on in a manner or at a time or place as to render the actor particularly susceptible to criminal attack, such as would justify a prudent person in going armed.

(2) The weapon was carried or kept ready at hand by the actor for defensive purposes while the actor was engaged in a lawful activity and had reasonable cause to fear a criminal attack upon the actor, a member of the actor's family, or the actor's home, such as would justify a prudent person in going armed.

(3) The weapon was carried or kept ready at hand by the actor for any lawful purpose and while in the actor's own home.

(4) The weapon was being transported in a motor vehicle for any lawful purpose, was not on the actor's person, and, if the weapon was a firearm, was carried in compliance with the applicable requirements described in (3) in "**Improperly handling firearms in a motor vehicle,**" below.

Operation of the bill

Prohibition. The bill restructures the prohibition against carrying a concealed weapon. It prohibits a person from knowingly carrying or having, concealed on the person's person or concealed ready at hand, any of the following (R.C. 2923.12(A)):

(1) A deadly weapon other than a handgun;

- (2) A handgun other than a dangerous ordnance;
- (3) A dangerous ordnance.

Penalty. The bill restructures the penalties for carrying a concealed weapon. Under the bill, a person who violates the prohibition is guilty of carrying concealed weapons. Generally, carrying concealed weapons is a misdemeanor of the first degree.

Carrying concealed weapons is a misdemeanor of the third degree if all of the following apply: (1) the weapon involved is a handgun, (2) at the time of the commission of the offense, the person met the requirements (2) through (9) of the requirements to be eligible for a license to carry a concealed handgun under "**When license must be issued,**" above, but, at the time of the commission of the offense, did not meet the training or experience requirement to be eligible for a license to carry a concealed handgun as described in paragraph (10) of "**When license must be issued,**" above, and (3) the person was not knowingly in an unauthorized place specified in "**Privileges and duties of a licensee,**" above, at the time of the offense.

Carrying concealed weapons is a felony of the fourth degree if the offender previously has been convicted of an offense of violence, if the weapon involved is a firearm, other than a handgun, that is either loaded or for which the offender has ammunition ready at hand, or if the weapon involved is dangerous ordnance.

Carrying concealed weapons is a felony of the third degree if any of the following apply: (1) the weapon involved is a handgun, and, at the time of the commission of the offense, the offender did not meet one or more of the requirements to be eligible for a license to carry a concealed handgun described in paragraphs (2) through (9) under "**When license must be issued,**" above, and did not meet the training or experience requirement, (2) the weapon involved is a handgun, and the offender either used the handgun in the commission of an offense of violence or knowingly carried the handgun for the purpose of committing an offense of violence, (3) the weapon involved is a firearm, and the violation is committed at premises for which a D permit has been issued under the Liquor Control Law, or (4) the offense is committed aboard an aircraft or with purpose to carry a concealed weapon aboard an aircraft regardless of the weapon involved. (R.C. 2923.12(D).)

Exception. The bill specifies that the prohibition against carrying a handgun other than a dangerous ordnance ((2), above) does not apply to a person who, at the time of the alleged carrying or possession of a handgun, is carrying a valid license to carry a concealed handgun issued under the bill's provisions, unless the person knowingly is in a place that is specified, as described in

"Privileges and duties of a licensee," above, as a place in which a licensee is not authorized to carry a concealed handgun (R.C. 2923.12(B)).

Affirmative defense. The bill authorizes an additional affirmative defense to a charge of carrying a concealed weapon. The additional affirmative defense applies when the weapon involved is a handgun and the actor, at the time of the alleged carrying or possession of the handgun, met all of the requirements for a license to carry a concealed handgun described in **"When license must be issued,"** above. This affirmative defense does not apply to a person who knowingly carries a concealed handgun into a place that is an unauthorized place specified in **"Privileges and duties of a licensee,"** above.

The bill does not otherwise change the application of the offense or its affirmative defenses (R.C. 2923.12(B) and (C)).

Possession of a firearm in a liquor permit premises

Existing law

Prohibition and penalty. Existing law prohibits a person from possessing a firearm in any room in which liquor is being dispensed on premises for which a D permit has been issued under the Ohio Liquor Law. A violation of the prohibition is a felony of the fifth degree. (R.C. 2923.121(A) and (D).)

Exceptions. The prohibition does not apply to officers, agents, or employees of Ohio or another state or the United States, or to law enforcement officers, when authorized to carry firearms, and acting within the scope of their duties. The prohibition does not apply to hotel accommodations. Additionally, the prohibition does not prohibit members of veteran's organizations from possessing unloaded rifles in any room in any premises under the control of the veteran's organization as long as the person is not otherwise prohibited by law from having the rifle. Finally, the prohibition does not apply to any person possessing or displaying firearms in any room used to exhibit unloaded firearms for sale or trade in a soldiers' memorial, in a convention center, or in any other public meeting place, if the person is an exhibitor, trader, purchaser, or seller of firearms and is not otherwise prohibited by law from possessing, trading, purchasing, or selling the firearms. (R.C. 2923.121(B).)

Affirmative defense. It is an affirmative defense to a charge of illegal possession of a firearm in a liquor permit premises that the actor was not otherwise prohibited by law from having the firearm, and that either of the following apply: (1) the firearm was carried or kept ready at hand by the actor for defensive purposes, while the actor was engaged in or was going to or from the actor's lawful business or occupation, which business or occupation was of such character or was

necessarily carried on in such manner or at such a time or place as to render the actor particularly susceptible to criminal attack, such as would justify a prudent person in going armed, or (2) the firearm was carried or kept ready at hand by the actor for defensive purposes, while the actor was engaged in a lawful activity, and had reasonable cause to fear a criminal attack upon the actor or a member of the actor's family, or upon the actor's home, such as would justify a prudent person in going armed. (R.C. 2923.121(C).)

Operation of the bill

Exception. The bill states that the above prohibition does not apply to a person who possesses a handgun in any room in which liquor is being dispensed on premises for which a D permit has been issued under the Ohio Liquor Law if the person is carrying a valid license to carry a concealed handgun issued under Ohio law (R.C. 2923.121(B)(5)).

Affirmative defense. The bill also creates an affirmative defense for this offense when the firearm in question was a handgun, and the actor, at the time of the alleged possession of the handgun, was a person who met all of the requirements to be eligible for a license to carry a concealed handgun under the bill. The affirmative defense does not apply to a person who knowingly was in a place in which a licensee is not permitted to carry a concealed handgun (see "**Privileges and duties of a licensee,**" above). (R.C. 2923.121(C)(3).)

Conveyance of a deadly weapon into a courthouse

Existing law

Prohibition and penalty. Existing law prohibits a person from knowingly conveying or attempting to convey a deadly weapon or dangerous ordnance into a courthouse or into another building or structure where a courtroom is located (hereafter "courthouse"). A person who violates this prohibition is guilty of illegal conveyance of a deadly weapon or dangerous ordnance into a courthouse, which generally is a felony of the fifth degree. If the offender previously has been convicted of this offense or the offense of illegal possession or control of a deadly weapon or dangerous ordnance in a courthouse, this offense is a felony of the fourth degree. (R.C. 2923.123(A) and (D).)

Exception. The prohibition does not apply to any of the following (R.C. 2923.123(C)):

(1) A judge of an Ohio court of record or a magistrate, unless a Supreme Court or local court rule prohibits all persons from conveying or attempting to convey a deadly weapon or dangerous ordnance into a courthouse or from

possessing or having under one's control a deadly weapon or dangerous ordnance in a courthouse;

(2) A peace officer, or an officer of a law enforcement agency of another state, a political subdivision of another state, or the United States, who is authorized to carry a deadly weapon or dangerous ordnance, who possesses or has under that individual's control a deadly weapon or dangerous ordnance as a requirement of that individual's duties, and who is acting within the scope of that individual's duties at the time of that possession or control;

(3) A person who conveys, attempts to convey, possesses, or has under the person's control a deadly weapon or dangerous ordnance that is to be used as evidence in a pending criminal or civil action or proceeding;

(4) A bailiff or deputy bailiff of an Ohio court of record who is authorized to carry a firearm, who possesses or has under that individual's control a firearm as a requirement of that individual's duties, and who is acting within the scope of that individual's duties at the time of that possession or control;

(5) A prosecutor, or a secret service officer appointed by a county prosecuting attorney, who is authorized to carry a deadly weapon or dangerous ordnance in the performance of the individual's duties, who possesses or has under that individual's control a deadly weapon or dangerous ordnance as a requirement of that individual's duties, and who is acting within the scope of that individual's duties at the time of that possession or control.

The exceptions in (2), (4), and (5), above, do not apply if a Supreme Court or local court rule prohibits all persons from conveying or attempting to convey a deadly weapon or dangerous ordnance into a courthouse or from possessing or having under one's control a deadly weapon or dangerous ordnance in a courthouse.

Operation of the bill

The bill expands the exceptions to provide that, in addition to the above specified individuals, the prohibition does not apply to a person who conveys or attempts to convey a handgun into a courthouse or into another building or structure in which a courtroom is located (hereafter "courthouse"), who, at the time of the conveyance or attempt, is carrying a valid license to carry a concealed handgun issued pursuant to this bill, and who transfers possession of the handgun to the sheriff or sheriff's designee who has charge of the courthouse or building. The sheriff must secure the handgun until the licensee is prepared to leave the premises. This exemption to the prohibition does not apply if a Supreme Court or local court rule prohibits all persons from conveying or attempting to convey a

deadly weapon or dangerous ordnance into a courthouse or from possessing or having under one's control a deadly weapon or dangerous ordnance in a courthouse. (R.C. 2923.123(C)(6).)

Improperly handling firearms in a motor vehicle

Existing law

Prohibition. Existing law prohibits a person from knowingly doing any of the following (R.C. 2923.16(A), (B), and (C)):

- (1) Discharging a firearm while in or on a motor vehicle;
- (2) Transporting or having a loaded firearm in a motor vehicle in a manner that the firearm is accessible to the operator or any passenger without leaving the vehicle;
- (3) Transporting or having a firearm in a motor vehicle, unless it is unloaded and is carried in one of the following ways: (a) in a closed package, box, or case, (b) in a compartment that can be reached only by leaving the vehicle, (c) in plain sight and secured in a rack or holder made for the purpose, or (d) in plain sight with the action open or the weapon stripped, or, if the firearm is of a type on which the action will not stay open or which cannot easily be stripped, in plain sight.

Penalty. A person who violates one of the prohibitions is guilty of improperly handling firearms in a motor vehicle. A violation of the first or second prohibition is a misdemeanor of the first degree, and a violation of the third prohibition is a misdemeanor of the fourth degree. (R.C. 2923.16(F).)

Exceptions. The prohibitions do not apply to officers, agents, or employees of Ohio or any other state or the United States, or to law enforcement officers, when authorized to carry or have loaded or accessible firearms in motor vehicles and acting within the scope of their duties.

The prohibition against knowingly discharging a firearm while in or on a motor vehicle does not apply to a person in specified circumstances related to shooting coyotes and groundhogs.

The prohibitions against transporting firearms in specified manners do not apply to a person if all of the following apply: (1) the person is the operator or a passenger in a motor vehicle, (2) the motor vehicle is on real property that is located in an unincorporated area of a township that is zoned or used for agriculture, (3) the person owns the property or is the spouse, child, tenant, or spouse or child of a tenant of the owner of the real property, and (4) the person did

not transport or possess the firearm in an illegal manner prior to arriving on the real property. (R.C. 2923.16(D).)

Affirmative defenses. The first and second affirmative defenses authorized for persons who are charged with carrying a concealed weapon (see "**Carrying a concealed weapon**," above) are affirmative defenses to a charge under the second or third prohibition (R.C. 2923.16(E)).

Operation of the bill

Exception. The bill states that the second and third prohibitions of the offense of improperly handling firearms in a motor vehicle do not apply to a person who transports or possesses a handgun in a motor vehicle and who, at the time of that transportation or possession, is carrying a valid license to carry a concealed handgun issued under the bill's provisions, unless the person knowingly is in a place in which a licensee is not authorized to carry a concealed handgun (see "**Privileges and duties of a licensee**," above") (R.C. 2923.16(D)(4)).

Affirmative defense. The bill creates an additional affirmative defense to a charge under the second or third prohibition related to transporting or possessing firearms in motor vehicles. The additional affirmative defense applies when an actor, at the time of the alleged carrying or possession of a handgun, was a person who met all of the requirements to be eligible for a license to carry a concealed handgun under the bill. (See "**When license must be issued**," above.) This affirmative defense does not apply to a person who knowingly carries a concealed handgun into a place in which a licensee is not authorized to carry a concealed handgun (see "**Privileges and duties of a licensee**," above). (R.C. 2923.16(E).)

The bill does not otherwise modify the offense of improperly handling firearms in a motor vehicle (R.C. 2923.16).

Improper use of firearms in a vessel

Existing law

Prohibitions. Existing law contains three prohibitions with respect to the use of firearms in a vessel (R.C. 1547.69(B), (C), and (D)):

(1) It prohibits a person from knowingly discharging a firearm while in or on a vessel.

(2) It prohibits a person from knowingly transporting or having a loaded firearm in a vessel in a manner that the firearm is accessible to the operator or any passenger.

(3) It prohibits a person from knowingly transporting or having a firearm in a vessel, unless it is unloaded and is carried in one of the following ways: (a) in a closed package, box, or case, or (b) in plain sight with the action opened or the weapon stripped, or, if the firearm is of a type on which the action will not stay open or which cannot easily be stripped, in plain sight.

R.C. 1547.69 also prohibits any person from operating or permitting to be operated any vessel on Ohio waters in violation of the above prohibitions (R.C. 1547.69(G)).

Penalty. A person who violates any of the prohibitions is guilty of a misdemeanor of the fourth degree. (R.C. 1547.99(F), not in the bill.)

Exceptions. The prohibitions do not apply to officers, agents, or employees of Ohio or any other state or of the United States or to law enforcement officers when authorized to carry or have loaded or accessible firearms in a vessel and acting within the scope of their duties, and the prohibitions do not apply to persons legally engaged in hunting.

The prohibitions do not apply to the possession or discharge of a U.S. Coast Guard approved signaling device required to be carried aboard a vessel when the signaling device is possessed or used for the purpose of giving a visual distress signal. The section also prohibits any person from knowingly transporting or possessing such a signaling device in or on a vessel in a loaded condition except as so authorized. (R.C. 1547.69(F) and (H).)

Affirmative defenses. The first two affirmative defenses authorized for persons charged with the offense of carrying a concealed weapon (see "**Carrying a concealed weapon**," above) are affirmative defenses to a charge under the second or third prohibition related to firearms in a vessel (R.C. 1547.69(E)).

Operation of the bill

Exception. The bill states that the second and third prohibitions relating to firearms in a vessel do not apply to a person who transports or possesses a handgun in a vessel and who, at the time of that transportation or possession, is carrying a valid license to carry a concealed handgun issued under the bill's provisions, unless the person knowingly is in a place on the vessel that is specified, as described in "**Privileges and duties of a licensee**," above, as a place in which a licensee is not authorized to carry a concealed handgun (R.C. 1547.69(H)).

Affirmative defense. The bill creates an additional affirmative defense to a charge under the second or third prohibition related to transporting or having

firearms in a vessel. The additional affirmative defense applies when an actor, at the time of the alleged carrying or possession of a handgun, was a person who met all of the requirements to be eligible for a license to carry a concealed handgun under "*When license must be issued*," above. This affirmative defense does not apply to a person who knowingly carries a concealed handgun into a place in which a licensee is not authorized to carry a concealed handgun described in "*Privileges and duties of a licensee*," above. (R.C. 1547.69(E).)

The bill does not otherwise modify the prohibitions relating to firearms in a vessel (R.C. 1547.69).

Access to sealed records

Existing law

Existing law specifies a procedure by which a first offender may apply to a court for the sealing of the record of the offender's conviction. Records that are so sealed may be inspected only by specified law enforcement officers and agencies, prosecutors, parole or probation officers, the person who is the subject of the records, and by BCII or an authorized BCII employee for the purpose of providing information to certain boards or persons with respect to persons who apply for employment to work with children or to provide direct care to an older adult. (R.C. 2953.32(A) and (D).)

Operation of the bill

The bill authorizes BCII, an authorized employee of BCII, a sheriff, or an authorized employee of the sheriff to inspect sealed records of first offenders in connection with a criminal records check described in "*Criminal records check*," above (R.C. 2953.32(D)(10)).

Licensing scheme is law of general nature

The bill states that it is the intent of the General Assembly in enacting R.C. 2923.124 to 2923.1212 to enact laws of a general nature. The bill states that no municipal corporation may adopt or continue in existence any ordinance, and no township may adopt or continue in existence, any resolution that is in conflict with those sections. (Section 6.)

Statement of legislative intent

The bill states that in amending and enacting the sections of the Revised Code in the bill, the General Assembly declares its intent to recognize both of the following (Section 3):

(1) The inalienable and fundamental right of an individual to defend the individual's person and the members of the individual's family;

(2) The fact that the right described in (1) predates the adoption of the United States Constitution, the adoption of the Ohio Constitution, and the enactment of all statutory laws by the General Assembly and may not be infringed by any enactment of the General Assembly.

The bill further states that in enacting and amending the sections of the Revised Code in the bill relative to licenses to carry a concealed handgun, the General Assembly declares that it is not its intent to declare or otherwise give the impression that, prior to the bill's effective date, an individual did not have an inalienable and fundamental right, or a right under the Ohio Constitution or the United States Constitution, to carry a concealed handgun or other firearm for the defense of the individual's person or a member of the individual's family while engaged in lawful activity (Section 4).

COMMENT

It is unclear how a sheriff is to make this determination.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	05-24-01	p. 468

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