



H.B. 460

124th General Assembly
(As Introduced)

Reps. Cirelli, Otterman, Oakar, Rhine, Fedor

BILL SUMMARY

- Prohibits a person from possessing, using, selling, or manufacturing any insidious weapon.
- Defines "insidious weapon" as a deadly weapon manufactured, designed, or specifically adapted to appear to be an item that is not a deadly weapon or that has been disguised so as to appear to be an item that is not a deadly weapon.
- Authorizes the Chief of the Division of Wildlife, wildlife officers, and certain other Wildlife Division employees to arrest persons using or dealing in insidious weapons, and authorizes those persons to perform certain other law enforcement functions in relation to violations of the new prohibition.

CONTENT AND OPERATION

Using or dealing in insidious weapons

Prohibition and penalty

The bill prohibits a person from possessing, using, selling, or manufacturing any *insidious weapon* (see "*Definitions*" below for a definition of any italicized term). A person who violates this prohibition is guilty of using or dealing in insidious weapons, a misdemeanor of the first degree. If the offender previously has been convicted of violating this prohibition 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*, using or dealing in insidious 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 Law or if the offense is

committed aboard an aircraft or with purpose to carry an insidious weapon aboard an aircraft, regardless of the weapon involved, using or dealing with insidious weapons is a felony of the third degree. (R.C. 2923.124(B) and (C).)

Definitions

Insidious weapon. As used in the bill, "insidious weapon" means a deadly weapon that has been manufactured, designed, or specifically adapted to appear to be an item that is not a deadly weapon or that has been disguised so as to appear to be an item that is not a deadly weapon (R.C. 2923.124(A)).

Dangerous ordnance. In existing law, "dangerous ordnance" generally means any of the following (R.C. 2923.11(K)):¹

¹ *"Dangerous ordnance" does not include any of the following (R.C. 2923.11(L)):*

(1) Any firearm, including a military weapon and the ammunition for that weapon, and regardless of its actual age, that employs a percussion cap or other obsolete ignition system, or that is designed and safe for use only with black powder;

(2) Any pistol, rifle, or shotgun, designed or suitable for sporting purposes;

(3) Any cannon or other artillery piece that, regardless of its actual age, is of a type in accepted use prior to 1887, has no mechanical, hydraulic, pneumatic, or other system for absorbing recoil and returning the tube into battery without displacing the carriage, and is designed and safe for use only with black powder;

(4) Black powder, priming quills, and percussion caps possessed and lawfully used to fire a cannon of a type described in (3) during displays, celebrations, organized matches or shoots, and target practice, and smokeless and black powder, primers, and percussion caps possessed and lawfully used as a propellant or ignition device in small-arms or small-arms ammunition;

(5) Dangerous ordnance that is inoperable or inert and cannot readily be rendered operable or activated, and that is kept as a trophy, souvenir, curio, or museum piece;

(6) Any device that is expressly excepted from the definition of a destructive device pursuant to the "Gun Control Act of 1968," 82 Stat. 1213, 18 U.S.C. 921(a)(4), as amended, and regulations issued under that act.

(1) Any automatic or sawed-off firearm, zip-gun, or ballistic knife;

(2) Any explosive device or incendiary device;

(3) Nitrolycerin, nitrocellulose, nitrostarch, PETN, cyclonite, TNT, picric acid, and other high explosives; amatol, tritonal, tetrytol, pentolite, peccretol, cyclotol, and other high explosive compositions; plastic explosives; dynamite, blasting gelatin, gelatin dynamite, sensitized ammonium nitrate, liquid-oxygen blasting explosives, blasting powder, and other blasting agents; and any other explosive substance having sufficient brisance or power to be particularly suitable for use as a military explosive, or for use in mining, quarrying, excavating, or demolitions;

(4) Any firearm, rocket launcher, mortar, artillery piece, grenade, mine, bomb, torpedo, or similar weapon, designed and manufactured for military purposes, and the ammunition for that weapon;

(5) Any firearm muffler or silencer;

(6) Any combination of parts that is intended by the owner for use in converting any firearm or other device into a dangerous ordnance.

Deadly weapon. In existing 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. In existing 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. (R.C. 2923.11(B)(1).)

Offense of violence. In existing law, "offense of violence" means any of the following (R.C. 2901.01(A)(9)):

(1) Aggravated murder, murder, voluntary manslaughter, involuntary manslaughter, felonious assault, aggravated assault, assault, permitting child abuse, aggravated menacing, menacing by stalking, menacing, kidnapping, abduction, extortion, rape, sexual battery, gross sexual imposition, the former offense of felonious sexual penetration, aggravated arson, arson, aggravated robbery, robbery, aggravated burglary, burglary (in certain circumstances), inciting to violence, aggravated riot, riot, inducing panic, endangering children (in certain circumstances), domestic violence, intimidation, intimidation of a crime victim or witness, escape, or improperly discharging a firearm at or into a habitation or in a school safety zone;

(2) A violation of an existing or former municipal ordinance or law of Ohio, another state, or the United States, substantially equivalent to any offense described in the preceding paragraph;

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

(4) A conspiracy or attempt to commit, or complicity in committing, any offense described in the three preceding paragraphs.

Arrest authority of the Chief of the Division of Wildlife, wildlife officers, and certain other Wildlife Division employees

Existing law

Under existing law, the Chief of the Division of Wildlife, wildlife officers, and other employees of the Division that the Chief specifies may serve and execute warrants and other processes of law issued in the enforcement of the laws prohibiting carrying concealed weapons, using weapons while intoxicated, and improperly handling weapons in a motor vehicle. The Chief, wildlife officers, or other employee also may arrest on sight and without a warrant a person found violating any such law. They may seize without process any firearm, deadly weapon, or dangerous ordnance used or possessed contrary to those laws and immediately convey the person so offending before any judge of a county court or judge of a municipal court having jurisdiction over the area in which the offense was committed. Existing law also prohibits a person from interfering with, threatening, abusing, assaulting, resisting, or in any manner deterring or attempting to deter a wildlife officer or any other officer having like authority from enforcing or from serving or executing any warrant or other process issued in the enforcement of those prohibitions; a violation of this prohibition is a misdemeanor of the first degree.²

The Chief and wildlife officers have the arrest authority specified for peace officers of the Department of Natural Resources for the purpose of enforcing Ohio criminal laws on any property owned, controlled, maintained, or administered by the Department of Natural Resources and may enforce the laws prohibiting carrying concealed weapons, using weapons while intoxicated, and improperly

² *The Chief, wildlife officers, and other employees also have similar authority in relation to the enforcement of laws or rules relating to wildlife or the use of property under the Division's control.*

handling weapons in a motor vehicle throughout Ohio and may arrest without warrant any person who, in the presence of the Chief or any wildlife officer, is engaged in the violation of any of those laws. (R.C. 1531.13 and 1533.67 and R.C. 1533.99(C), not in the bill.)

Operation of the bill

The bill expands the application of these provisions to also apply to the new offense of using or dealing in insidious weapons (R.C. 1531.13 and 1533.67).

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	12-26-01	p. 1181

H0460-I.124/jc

