



Sub. S.B. 219*

126th General Assembly

(As Reported by S. Judiciary on Criminal Justice)

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BILL SUMMARY

- Modifies the definition of "explosive device" that applies in the Weapons Control Law by specifying that the device must contain an explosive substance or agency (instead of consisting of an explosive substance or agency and a means to detonate it) and by expanding the list of examples of "explosive devices" to also include any such device composed in whole or in part of household chemicals or goods or other generally available chemicals or substances.
- Increases the penalty for the offense of "unlawful possession of dangerous ordnance" to a felony of the third degree if the dangerous ordnance that is acquired, had, carried, or used in the violation is an explosive device.
- In the definition of "explosive" that applies in the Weapons Control Law: (1) modifies the listing of examples of items that are explosives to specify that "explosive" includes all materials that have been classified as *Division 1.1, Division 1.2, Division 1.3, or Division 1.4 explosives* (instead of those classified as class A, class B, or class C) by the U.S. Department of Transportation in its regulations, and (2) modifies the listing of examples of items that are not explosives to include *any substance or material otherwise meeting the definition of explosive set forth in existing law as modified by the bill that is manufactured, sold, possessed, transported, stored, or used in any activity described in R.C. 3743.80, provided the activity is conducted in accordance with all*

* This analysis was prepared before the report of the Senate Judiciary on Criminal Justice Committee appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

applicable laws, rules, and regulations including, but not limited to, the provisions of R.C. 3743.80 and the rules of the State Fire Marshal adopted pursuant to R.C. 3737.82.

TABLE OF CONTENTS

Weapons Control Law definition of "explosive device"; use of the term.....	2
Existing law	2
Operation of the bill.....	4
Unlawful possession of dangerous ordnance	5
Existing law	5
Operation of the bill.....	5
Weapons Control Law definition of "explosive"; use of the term	6
Existing law	6
Operation of the bill.....	7

CONTENT AND OPERATION

Weapons Control Law definition of "explosive device"; use of the term

Existing law

Existing law defines "explosive device" for purposes of R.C. 2923.11 to 2923.24 (the Weapons Control Law) as any device designed or specially adapted to cause physical harm to persons or property by means of an explosion, and consisting of an explosive substance or agency and a means to detonate it. "Explosive device" includes without limitation any bomb, any explosive demolition device, any blasting cap or detonator containing an explosive charge, and any pressure vessel that has been knowingly tampered with or arranged so as to explode. (R.C. 2923.11(H).)

The term "explosive device" is used in only three statutes contained in the Weapons Control Law and is used in four anti-terrorism statutes located outside of that Law. The three Weapons Control Law statutes and four anti-terrorism statutes that use the term, and the uses that are made of the term, are as follows:

(1) R.C. 2923.11(K) defines the term "dangerous ordnance" for purposes of the Weapons Control Law (see **COMMENT 1**) and *includes an explosive device as a "dangerous ordnance."*

(2) R.C. 2923.17, in relevant part, sets forth the offense of "unlawful possession of dangerous ordnance." The section states that the prohibition that comprises the offense does not apply to certain specified persons, including

importers, manufacturers, dealers, and users of explosives, having a license or user permit issued and in effect pursuant to the federal "Organized Crime Control Act of 1970," and any amendments or additions to it or reenactments of it, *with respect to explosives and explosive devices lawfully acquired, possessed, carried, or used under Ohio law and applicable federal law.*

(3) R.C. 2923.18 sets forth a procedure for a person or entity to apply for and, if specified criteria are satisfied, be issued a license or temporary permit to acquire, possess, carry, or use dangerous ordnance for any of a list of specified purposes. Among the persons and entities that may apply for and be granted a license or temporary permit are: (a) contractors, wreckers, quarrymen, mine operators, and other persons regularly employing explosives in the course of a legitimate business, *with respect to explosives and explosive devices acquired, possessed, carried, or used in the course of such business*, and (b) farmers, *with respect to explosives and explosive devices acquired, possessed, carried, or used for agricultural purposes on lands farmed by them.* If specified eligibility criteria are satisfied and a license or permit is to be issued, the *permit is to be a temporary permit, valid for 30 days, if it is for the casual use of explosives and explosive devices.*

(4) R.C. 2909.21 defines a series of terms that are used in the state's anti-terrorism laws set forth in R.C. 2909.21 to 2909.34. Among the defined terms are "*explosive device*," which has the same meaning as in R.C. 2923.11.

(5) R.C. 2909.26, part of the state's anti-terrorism laws, sets forth the offense of "criminal possession of a chemical weapon, biological weapon, radiological or nuclear weapon, or explosive device." The offense generally prohibits a person from *knowingly possessing any* chemical weapon, biological weapon, radiological or nuclear weapon, or *explosive device with the intent to use it to cause serious physical harm or death* to another person, and from *knowingly possessing any* chemical weapon, biological weapon, radiological or nuclear weapon, or *explosive device with intent to use the weapon to intimidate or coerce a civilian population, influence the policy of any government by intimidation or coercion, or affect the conduct of any government by murder, assassination, or kidnapping.*

(6) R.C. 2909.27, part of the state's anti-terrorism laws, sets forth the offense of "criminal use of chemical weapon, biological weapon, radiological or nuclear weapon, or explosive device." The offense generally prohibits a person from *recklessly using, deploying, releasing, or causing to be used, deployed, or released any* chemical weapon, biological weapon, radiological or nuclear weapon, or *explosive device that creates a risk of death or serious physical harm* to another person not a participant in the offense, and from *knowingly using, deploying, releasing, or causing to be used, deployed, or released any* chemical

weapon, biological weapon, radiological or nuclear weapon, or *explosive device with the intent to intimidate or coerce a civilian population, influence the policy of any government by intimidation or coercion, affect the conduct of any government by murder, assassination, or kidnapping, or cause physical harm to, or the death of, any person who is not a participant in the offense.*

(7) R.C. 2909.28, part of the state's anti-terrorism laws, sets forth the offense of "illegal assembly or possession of chemicals or substances for the manufacture of chemical weapon, biological weapon, radiological or nuclear weapon, or explosive device. The offense generally prohibits a person, *with the intent to manufacture a chemical weapon, biological weapon, radiological or nuclear weapon, or explosive device, from knowingly assembling or possessing one or more toxins, toxic chemicals, precursors of toxic chemicals, vectors, biological agents, or hazardous radioactive substances,* including, but not limited to, those listed in rules the Director of Public Safety adopts, *that may be used to manufacture a chemical weapon, biological weapon, radiological or nuclear weapon, or explosive device.*

Operation of the bill

The bill changes the existing definition of "explosive device" in three ways: (1) it replaces "consisting of" with "containing," (2) it eliminates the existing requirement that the device in question must consist of a means to detonate the explosive substance or agency, and (3) it expands the list of examples of "explosive devices" to also include any such device (i.e., any device designed or specially adapted to cause physical harm to persons by means of an explosion, and containing an explosive substance or agency) composed in whole or in part of household chemicals or goods or other generally available chemicals or substances. Thus, under the bill, "explosive device" means any device designed or specially adapted to cause physical harm to persons by means of an explosion, and *containing* an explosive substance or agency, including, without limitation, *any such device composed in whole or in part of household chemicals or goods or other generally available chemicals or substances,* any bomb, any explosive demolition device, any blasting cap or detonator containing an explosive charge, and any pressure vessel that has been knowingly tampered with or arranged so as to explode. (R.C. 2923.11(H).)

Except as described below in "**Unlawful possession of dangerous ordnance**," the bill does not amend any other provision of law that uses the term "explosive device," but, by making the change described in the preceding paragraph to the definition of "explosive device," the household chemicals or goods that it adds to the definition under that change automatically are incorporated into the term "explosive device" as it is used in existing R.C. 2923.11(K), 2923.17, and 2923.18, as described above in "**Existing law**."

Unlawful possession of dangerous ordnance

Existing law

Existing law prohibits a person from knowingly acquiring, having, carrying, or using any "dangerous ordnance" (see **COMMENT 1**). A violation of the prohibition is the offense of "unlawful possession of dangerous ordnance," a felony of the fifth degree.

The prohibition does not apply to any of the following: (1) any officer, agent, or employee of Ohio or any other state or the United States, any member of the armed forces of the United States or the organized militia of Ohio or any other state, or any law enforcement officer, to the extent that any such person is authorized to acquire, have, carry, or use dangerous ordnance and is acting within the scope of the person's duties, (2) any importer, manufacturer, dealer, or user of explosives, having a license or user permit issued and in effect pursuant to the federal "Organized Crime Control Act of 1970," with respect to explosives and explosive devices lawfully acquired, possessed, carried, or used under the laws of Ohio and applicable federal law, (3) any importer, manufacturer, or dealer having a license to deal in destructive devices or their ammunition, issued and in effect pursuant to the federal "Gun Control Act of 1968," with respect to dangerous ordnance lawfully acquired, possessed, carried, or used under the laws of Ohio and applicable federal law, (4) any person to whom surplus ordnance has been sold, loaned, or given by the Secretary of the Army pursuant to specified provisions of federal law, with respect to dangerous ordnance when lawfully possessed and used for the purposes specified in the provision, (5) any owner of dangerous ordnance registered in the National Firearms Registration and Transfer Record pursuant to a specified provision of federal law, and regulations issued thereunder, (6) any carrier, warehouseman, or other person engaged in the business of transporting or storing goods for hire, with respect to dangerous ordnance lawfully transported or stored in the usual course of their business and in compliance with the laws of Ohio and applicable federal law, or (7) any holder of a license or temporary permit issued and in effect pursuant to R.C. 2923.18, with respect to dangerous ordnance lawfully acquired, possessed, carried, or used for the purposes and in the manner specified in such license or permit. (R.C. 2923.17(A), (C), and (D).)

Operation of the bill

The bill increases the penalty for the offense of "unlawful possession of dangerous ordnance" to a felony of the third degree if the dangerous ordnance that is acquired, had, carried, or used in the violation is an "explosive device." (R.C. 2923.17(A), (C), and (D).)

The bill's modification of the definition of "explosive device," described above in "*Weapons Control Law definition of "explosive device"; use of the term,*" affects this offense.

Weapons Control Law definition of "explosive"; use of the term

Existing law

Existing law defines "explosive" for purposes of the Weapons Control Law as any chemical compound, mixture, or device, the primary or common purpose of which is to function by explosion. "Explosive" includes all materials that have been classified as class A, class B, or class C explosives by the United States Department of Transportation in its regulations and includes, but is not limited to, dynamite, black powder, pellet powders, initiating explosives, blasting caps, electric blasting caps, safety fuses, fuse igniters, squibs, cordeau detonant fuses, instantaneous fuses, and igniter cords and igniters. "Explosive" does not include "fireworks," as defined in R.C. 3734.01, or any explosive that is not subject to regulation under the rules of the State Fire Marshal adopted pursuant to R.C. 3737.82. (R.C. 2923.11(M).)

The term "explosive" is used in only three statutes contained in the Weapons Control Law. Many statutes outside of that Law use the term "explosive," but the R.C. 2923.11 definition of that term is not explicitly made applicable to any of those statutes (see **COMMENT 2**). The three Weapons Control Law statutes that use the term, and the uses that are made of the term, are as follows:

(1) R.C. 2923.11 defines a series of terms for purposes of the Weapons Control Law and, in three of those definitions, uses the term "explosive." The relevant definitions are: (a) R.C. 2923.11(B) defines "firearm" as any deadly weapon capable of expelling or propelling one or more projectiles by the action of an *explosive* or combustible propellant, including an unloaded firearm and any firearm that is inoperable but that can readily be rendered operable, (b) R.C. 2923.11(H) defines "explosive device" in the manner described above in "*Weapons Control Law definition of "explosive device"; use of the term,*" and (c) R.C. 2923.11(K) defines "dangerous ordnance" in the manner described in **COMMENT 1**.

(2) R.C. 2923.17, in relevant part, sets forth the offense of "illegally manufacturing or processing explosives," which is a felony of the second degree. The offense prohibits a person from manufacturing or processing an *explosive* at any location in Ohio unless the person first has been issued a license, certificate of registration, or permit to do so from a fire official of an Ohio political subdivision or from the office of the State Fire Marshal.

(3) R.C. 2923.18 sets forth a procedure for a person or entity to apply for and, if specified criteria are satisfied, be issued a license or temporary permit to acquire, possess, carry, or use dangerous ordnance for any of a list of specified purposes. Among the persons and entities that may apply for and be granted a license or temporary permit are: (a) contractors, wreckers, quarrymen, mine operators, and other persons regularly employing explosives in the course of a legitimate business, *with respect to explosives and explosive devices acquired, possessed, carried, or used in the course of such business*, and (b) farmers, *with respect to explosives and explosive devices acquired, possessed, carried, or used for agricultural purposes on lands farmed by them*. If specified eligibility criteria are satisfied and a license or permit is to be issued, the *permit is to be a temporary permit, valid for 30 days, if it is for the casual use of explosives and explosive devices*.

Operation of the bill

The bill does not change the general definition of "explosive," but it modifies both the listing of examples of items that are explosives and the listing of examples of items that are not explosives. The bill modifies the listing of examples of items that are explosives to specify that "explosive" includes all materials that have been classified as *Division 1.1, Division 1.2, Division 1.3, or Division 1.4 explosives* by the United States Department of Transportation in its regulations (replacing the reference to all materials so classified as class A, class B, or class C explosives). Under the bill, the listing of examples of items that are not explosives specifies that "explosive" does not include "fireworks," as defined in R.C. 3734.01, *or any substance or material otherwise meeting the definition of explosive set forth above that is manufactured, sold, possessed, transported, stored, or used in any activity described in R.C. 3743.80, provided the activity is conducted in accordance with all applicable laws, rules, and regulations including, but not limited to, the provisions of R.C. 3743.80 and the rules of the State Fire Marshal adopted pursuant to R.C. 3737.82.* (R.C. 2923.11(M).)

COMMENT

1. **Weapons Control Law definition of "dangerous ordnance"; includes explosive device; use of the term.** Existing law, unchanged by the bill, defines "dangerous ordnance" for purposes of the Weapons Control Law as any of the following, except as provided in the next paragraph: (a) any automatic or sawed-off firearm, zip-gun, or ballistic knife, (b) *any explosive device* or incendiary device, (c) nitroglycerin, nitrocellulose, nitrostarch, PETN, cyclonite, TNT, picric acid, and other high explosives; amatol, tritonal, tetrytol, pentolite, pectretol, 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, (d) 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, (e) any firearm muffler or silencer, or (f) any combination of parts that is intended by the owner for use in converting any firearm or other device into a dangerous ordnance.

Existing law, unchanged by the bill, specifies that "dangerous ordnance" does not include any of the following: (a) 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, (b) any pistol, rifle, or shotgun, designed or suitable for sporting purposes, including a military weapon as issued or as modified, and the ammunition for that weapon, unless the firearm is an automatic or sawed-off firearm, (c) 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, (d) black powder, priming quills, and percussion caps possessed and lawfully used to fire a cannon of a type defined in clause (c) of this paragraph 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, (e) 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, or (f) any device that is expressly excepted from the definition of a destructive device pursuant to the federal "Gun Control Act of 1968," as amended, and regulations issued under that Act. (R.C. 2923.11(K) and (L).)

The term "dangerous ordnance" is used in 13 existing statutes in the Weapons Control Law, in addition to R.C. 2923.11. It also is used in 28 existing statutes outside of the Weapons Control Law, most of which incorporate by reference the R.C. 2923.11 definition of the term. The bill does not amend any of these statutes that use the term "dangerous ordnance," but, by making the change to the definition of "explosive device" that is described above in "**Weapons Control Law definition of "explosive device"; use of the term.**" the changes that the bill makes in the definition automatically are incorporated into the term "dangerous ordnance" as it is used in all of the existing statutes that use the term "dangerous ordnance" as it is defined in R.C. 2923.11. The Weapons Control Law statutes, and the statutes outside of that Law, that use the term, and the uses that are made of the term, are as follows (except when noted in the summary of the

section, all references to "dangerous ordnance" incorporate the R.C. 2923.11 definition of the term):

(a) R.C. 1533.67 grants the Chief of the Division of Wildlife of the Department of Natural Resources and wildlife officers of the Division with certain law enforcement powers, including the power to seize any firearm, deadly weapon, or *dangerous ordnance* used or possessed contrary to R.C. 2923.12, 2923.15, or 2923.16. It also prohibits any person from interfering with, threatening, deterring, etc., a wildlife officer or other officer with similar authority from enforcing certain laws, including R.C. 2923.12, 2923.15, or 2923.16 regulating use or possession of firearms, deadly weapons, or *dangerous ordnance*.

(b) R.C. 2301.31 pertains to the arrest of a person on parole who violates a condition of the person's parole. In part, it authorizes any peace officer to arrest the person without a warrant if the officer has reasonable ground to believe that the person has violated or is violating any of a list of specified conditions that is a condition of the person's parole. One of the specified conditions is a condition that prohibits ownership, possession, or use of a firearm, deadly weapon, ammunition, or *dangerous ordnance*.

(c) R.C. 2901.01(A)(13) defines "contraband" for purposes of the Revised Code, and includes within the definition forfeitable firearms and *dangerous ordnance* (the section does not define the term).

(d) R.C. 2903.05 sets forth the offense of "negligent homicide," which prohibits a person from negligently causing the death of another or the unlawful termination of another's pregnancy by means of a deadly weapon or *dangerous ordnance*.

(e) R.C. 2903.11 sets forth the offense of "felonious assault," which, in relevant part, prohibits a person from knowingly causing or attempting to cause physical harm to another or to another's unborn by means of a deadly weapon or *dangerous ordnance*.

(f) R.C. 2903.13 sets forth the offense of "aggravated assault," which, in relevant part prohibits a person while under the influence of sudden passion or in a sudden fit of rage, either of which is brought on by a specified type of provocation, from knowingly causing or attempting to cause physical harm to another or to another's unborn by means of a deadly weapon or *dangerous ordnance*.

(g) R.C. 2903.14 sets forth the offense of "negligent assault," which prohibits a person from negligently, by means of a deadly weapon or *dangerous ordnance*, from causing physical harm to another or another's unborn.

(h) R.C. 2911.01 sets forth the offense of "aggravated robbery," which, in relevant part, prohibits a person, in attempting to commit a theft offense or in fleeing immediately after the attempt or offense, from having a *dangerous ordnance* on or about the offender's person or under the offender's control.

(i) R.C. 2911.11 sets forth the offense of "aggravated burglary," which, in relevant part, prohibits a person, by force, stealth, or deception, from trespassing in an occupied structure or in a separately secured or separately occupied portion of an occupied structure, when another person other than an accomplice of the offender is present, with purpose to commit in the structure or in the portion of the structure any criminal offense, if the offender has a deadly weapon or *dangerous ordnance* on or about the offender's person or under the offender's control.

(j) R.C. 2913.01 sets forth the definitions for R.C. Chapter 2913., the Theft Offenses Law. It incorporates for use in that Law the R.C. 2923.11 definition of *dangerous ordnance*.

(k) R.C. 2913.02 sets forth the offense of "theft" and related offenses. The penalty for the offenses vary, depending upon the value and nature of the item stolen. The section specifies that, if the property stolen is a firearm or *dangerous ordnance*, the offense is "grand theft," a felony of the third degree, there is a presumption for a prison term, and the offender must serve any prison term imposed consecutively to any other prison term previously or subsequently imposed upon the offender.

(l) R.C. 2913.51 sets forth the offense of "receiving stolen property." The penalty for the offense varies, depending upon the value and nature of the item stolen. The section specifies that, if the property stolen is a firearm or *dangerous ordnance*, the offense is a felony of the fourth degree.

(m) R.C. 2917.02 sets forth the offense of "aggravated riot," which, in relevant part, prohibits a person from participating with four or more others in a course of disorderly conduct in violation of R.C. 2917.11 when the offender or any participant to the knowledge of the offender has on or about the offender's or participant's person or under the offender's or participant's control, uses, or intends to use a deadly weapon or *dangerous ordnance*.

(n) R.C. 2919.251 requires in specified circumstances that a person charges with any offense of violence allegedly committed against a family or household member to appear before the court for the setting of bail. One of the circumstances in which the person charged must so appear before the court is when the arresting law enforcement officer indicates in a police report or other document accompanying the complaint that the arresting officer reasonably

believes that the person had on the person's person at the time of the alleged offense a deadly weapon or *dangerous ordnance*.

(o) R.C. 2921.36, in relevant part, sets forth the offense of "illegal conveyance of weapons onto the grounds of a detention facility or a mental health or mental retardation and developmental disabilities institution," which, in relevant part, prohibits a person from knowingly conveying, or attempting to convey, onto the grounds of detention facility or of an institution under the control of the Department of Mental Health or the Department of Mental Retardation and Developmental Disabilities, any deadly weapon or *dangerous ordnance*, or any part of or ammunition for use in a deadly weapon or *dangerous ordnance*.

(p) R.C. 2923.12 sets forth the offense of "carrying concealed weapons," which, in relevant part, prohibits a person from knowingly carrying or having, concealed on the person's person or concealed ready at hand, a *dangerous ordnance*. The section provides exemptions from, and affirmative defenses to, the prohibition in specified circumstances and for specified persons.

(q) R.C. 2923.122, in relevant part, sets forth the offense of "illegal conveyance or possession of a deadly weapon or dangerous ordnance in a school safety zone," which, in relevant part, prohibits a person from knowingly conveying, or attempting to convey, a deadly weapon or *dangerous ordnance* into a school safety zone. The section provides exemptions from the prohibition in specified circumstances and for specified persons.

(r) R.C. 2923.123 sets forth the offense of "illegal conveyance of a deadly weapon or dangerous ordnance into a courthouse," which 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 in which a courtroom is located. The section also sets forth a similar offense related to possession of a deadly weapon or *dangerous ordnance* in a courthouse. The section provides exemptions from the prohibitions in specified circumstances and for specified persons.

(s) R.C. 2923.1212 requires specified persons, boards, and entities to post signs in specified locations warning people that it generally is illegal to knowingly possess, have under the person's control, convey, or attempt to convey, a deadly weapon or dangerous ordnance onto the premises.

(t) R.C. 2923.13 sets forth the offense of "having weapons while under a disability," which, in relevant part, prohibits a person who is under a specified type of disability (e.g., being a fugitive from justice, having been convicted of a felony offense of violence, etc.) and who has not been relieved from that disability

under R.C. 2923.14 from knowingly acquiring, having, carrying, or using any firearm or *dangerous ordnance*.

(u) R.C. 2923.14 provides a mechanism pursuant to which a person who is under a type of disability specified in R.C. 2923.13, as described above in (20), may apply for and, if specified criteria apply, obtain relief from the disability. However, any relief from disability so granted does not apply with respect to *dangerous ordnance*.

(v) R.C. 2923.15 sets forth the offense of "using weapons while intoxicated," which prohibits a person, while under the influence of alcohol or any drug of abuse, from carrying or using any firearm or *dangerous ordnance*.

(w) R.C. 2923.17, in relevant part, sets forth the offense of "unlawful possession of dangerous ordnance," which prohibits a person from knowingly acquiring, having, carrying, or using any *dangerous ordnance*. The section provides exemptions from the prohibitions in specified circumstances and for specified persons.

(x) R.C. 2923.18 provides a procedure for a person or entity to apply for and, if specified criteria are satisfied, be issued a license or temporary permit to acquire, possess, carry, or use *dangerous ordnance* for any of a list of specified purposes.

(y) R.C. 2923.19 sets forth the offense of "failure to secure dangerous ordnance," which prohibits a person, in acquiring, possessing, carrying, or using any *dangerous ordnance*, from negligently failing to take proper precautions to secure the *dangerous ordnance* against theft or against its acquisition or use by an unauthorized or incompetent person, or negligently failing to insure the safety of persons and property.

(z) R.C. 2923.20 sets forth the offense of "unlawful transactions in weapons," which, in relevant part, prohibits a person from engaging in specified conduct relative to the transfer or possession of dangerous ordnance.

(aa) R.C. 2923.23 provides an immunity from prosecution for a violation of R.C. 2923.13 or, in certain cases, R.C. 2923.17, to a person who voluntarily surrenders the involved firearms or *dangerous ordnance* and satisfies other specified criteria.

(bb) R.C. 2923.24 sets forth the offense of "possessing criminal tools," which prohibits a person from possessing or having under the person's control any substance, device, instrument, or article with purpose to use it criminally. The section identifies certain circumstances that constitute prima-facie evidence of

criminal purpose, including possession or control of *dangerous ordnance*, or the materials or parts for making *dangerous ordnance*, in the absence of circumstances indicating the *dangerous ordnance*, materials, or parts are intended for legitimate use.

(cc) R.C. 2923.41 sets forth the definitions for R.C. 2923.41 to 2923.47, the Criminal Gang Law. It incorporates for use in that Law the R.C. 2923.11 definition of *dangerous ordnance*.

(dd) R.C. 2923.46 provides for the disposition of property forfeited to the state under the Criminal Gang Law. In relevant part, it specifies that firearms and dangerous ordnance so forfeited to the state that are suitable for police work may be given to a law enforcement agency for that purpose, firearms suitable for sporting use, or as museum pieces or collectors items, may be disposed of by sale, and all other firearms and dangerous ordnance must be destroyed.

(ee) R.C. 2925.44 provides for the disposition of property forfeited to the state under R.C. 2925.41 to 2925.45, the Felony Drug Abuse Offense Forfeiture Law. In relevant part, it specifies that firearms and dangerous ordnance so forfeited to the state that are suitable for police work may be given to a law enforcement agency for that purpose, firearms suitable for sporting use, or as museum pieces or collectors items, may be disposed of by sale, and all other firearms and dangerous ordnance must be destroyed.

(ff) R.C. 2929.14, in relevant part, specifies that, if person is convicted of "grand theft" under R.C. 2913.02 based on the property stolen being a firearm or *dangerous ordnance* and if the person is sentenced to a prison term for the offense, the offender must serve the prison term consecutively to any other prison term previously or subsequently imposed upon the offender.

(gg) R.C. 2933.41 provides for the disposition of lost, abandoned, stolen, seized, or forfeited property that is in the custody of a law enforcement agency after the property no longer is needed as evidence. In relevant part, it specifies that firearms and dangerous ordnance so possessed that are suitable for police work may be given to a law enforcement agency for that purpose, firearms suitable for sporting use, or as museum pieces or collectors items, may be disposed of by sale, and all other firearms and dangerous ordnance must be destroyed.

(hh) R.C. 2935.032 requires local law enforcement agencies to adopt written policies and procedures for its peace officers to follow in responding to reports of an alleged incident of domestic violence or an alleged incident of violating a protection order and for implementing the state's "arrest as a preferred course of conduct" policy that applies to domestic violence incidents. In relevant part, the policy must provide for treating conduct as the offense of "aggravated

assault" if the conduct includes acts that parallel the elements of that offense. As described above in (6), the elements of that offense, in relevant part, include knowingly causing or attempting to cause physical harm to another or to another's unborn by means of a deadly weapon or *dangerous ordnance*.

(ii) R.C. 2941.46 pertains to the arrest of a person released on a conditional pardon or parole who violates a condition of the person's release. In part, it authorizes any peace officer to arrest the person without a warrant if the officer has reasonable ground to believe that the person has violated or is violating any of a list of specified conditions that is a condition of the person's release. One of the specified conditions is a condition that prohibits ownership, possession, or use of a firearm, deadly weapon, ammunition, or *dangerous ordnance*.

(jj) R.C. 2951.01 sets forth the definitions for R.C. Chapter 2951. It incorporates for use in that chapter the R.C. 2923.11 definition of *dangerous ordnance*.

(kk) R.C. 2951.08 pertains to the arrest of a person who is under a community control sanction who violates a condition of the person's sanction. In part, it authorizes any peace officer to arrest the person without a warrant if the officer has reasonable ground to believe that the person has violated or is violating any of a list of specified conditions that is a condition of the person's sanction. One of the specified conditions is a condition that prohibits ownership, possession, or use of a firearm, deadly weapon, ammunition, or *dangerous ordnance*.

(ll) R.C. 2967.28 governs post-release control for convicted felons who are released from prison and upon whom a period of post-release control is imposed. In relevant part, it provides that, if a person on post-release control violates a post-release control sanction or condition imposed upon the person, in specified circumstances, the Parole Board may impose as a new sanction a residential sanction that includes a prison term and the Board must consider a prison term as a new sanction imposed for a violation of a post-release control sanction when the violation involves a deadly weapon or *dangerous ordnance* or any other of a list of specified factors.

(mm) R.C. 5120.421 provides for searches of visitors to state correctional institutions, including searches for deadly weapons or *dangerous ordnance*.

(nn) R.C. 5139.251 provides for searches of visitors to institutions of the Department of Youth Services, including searches for deadly weapons or *dangerous ordnance*.

(oo) R.C. 5139.52, in relevant part, pertains to the arrest of a delinquent child who was committed to the Department of Youth Services, who is on

supervised release or judicial release to Department supervision, and who violates a condition of the child's release. In part, it authorizes any peace officer to arrest the child without a warrant if the officer has reasonable ground to believe that the child has violated or is violating any of a list of specified conditions that is a condition of the child's release. One of the specified conditions is a condition that prohibits ownership, possession, or use of a firearm, deadly weapon, ammunition, or *dangerous ordnance*.

2. **Use of term "explosive" in statutes outside of Weapons Control Law.**

The term "explosive" is used in numerous existing statutes outside of the Weapons Control Law, but none of them explicitly incorporate the R.C. 2923.11 definition of that term. The bill does not amend any of these statutes that use the term "explosive," and the effect of the changes the bill makes in the R.C. 2923.11 definition of "explosive" that is described above in "**Weapons Control Law definition of "explosive"; use of the term**" on these statutes is uncertain. The statutes outside of the Weapons Control Law that use the term, and the uses made of the term, are R.C. 109.61, 715.60, 715.61, 715.63, 901.511, 955.012, 1311.01, 1506.30, 1513.01, 1513.07, 1513.161, 1514.02, 1514.12, 1533.58, 1547.29, 1561.01, 1561.07, 1561.12, 1561.16, 1561.20, 1561.21, 1561.22, 1561.31, 1563.12, 1563.24, 1565.03, 1567.09, 1567.10, 1567.23, 1567.24, 1567.25, 1567.26, 1567.27, 1567.38, 1567.49, 2305.401, 2909.21, 2909.32, 2917.31, 3313.643, 3734.02, 3734.041, 3734.05, 3734.44, 3737.41, 3737.82, 3737.84, 3743.01, 3743.05, 3743.80, 3761.16, 3781.25, 3781.30, 4511.01, and 4513.29.

HISTORY

ACTION	DATE
Introduced	10-27-05
Reported, S. Judiciary on Criminal Justice	---

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