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Sens. Buehrer, Faber, Grendell, Niehaus, Stivers, Padgett, Carey, Goodman, Mumper, Clancy, Schuring, Schaffer, Schuler, Cafaro, Gardner, Austria, Seitz, Bocchieri, Cates, Fedor, Harris, Spada, Wagoner, Wilson, Amstutz

Reps. Uecker, Peterson, Mandel, Dyer, Adams, Aslanides, Batchelder, Blessing, Bolon, Book, Brinkman, Coley, Collier, Combs, Core, Daniels, Dodd, Dolan, Domenick, Driehaus, Evans, Fessler, Flowers, Garrison, Gerberry, Gibbs, Goodwin, Goyal, J. Hagan, Hite, Hottinger, Huffman, Jones, R. McGregor, Mecklenborg, Oelslager, Okey, J. Otterman, Patton, Raussen, Reinhard, Sayre, Schindel, Schlichter, Schneider, Setzer, J. Stewart, Szollosi, Wachtmann, Webster, White, Widener, Yuko, Zehringer

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ACT SUMMARY

Self-defense--residence or vehicle

- Provides that a person is presumed to have acted in self defense or defense of another when using defensive force that is intended or likely to cause death or great bodily harm to another if the person against whom the defensive force is used is in the process of unlawfully and without privilege to do so entering, or has unlawfully and without privilege to do so entered, the residence or vehicle occupied by the person using the defensive force (R.C. 2901.05(B)(1)).
- Specifies that the presumption described in the preceding dot point is a rebuttable presumption and may be rebutted by a preponderance of the evidence (R.C. 2901.05(B)(3)).
- Specifies that the presumption described in the second preceding dot point paragraph does not apply if: (1) the person against whom the defensive force is used has the right to be in, or is a lawful resident of, the residence or vehicle, or (2) the person who uses the defensive force uses it while in a residence or vehicle and the person is unlawfully, and without privilege to be, in that residence or vehicle (R.C. 2901.05(B)(2)).
- Provides that, for purposes of any Revised Code section that sets forth a criminal offense, a person who lawfully is in that person's residence has no duty to retreat before using force in self-defense, defense of another, or defense of that person's residence, and a person who lawfully is an occupant of that person's vehicle or who lawfully is an occupant in a vehicle owned by an immediate family member of the person has no duty to retreat before using force in self-defense or defense of another (R.C. 2901.09).

Self-defense--immunity in tort actions

- Provides that, except as described in the next dot point, recovery on a claim in a tort action is barred to any person or the person's legal representative if either of the following apply: (1) the person engaged in conduct that, if prosecuted, would constitute a felony, a misdemeanor that is an offense of violence, an attempt to commit a felony, or an attempt to commit a misdemeanor that is an offense of violence and that conduct was a proximate cause of the injury or loss for which the relief is

claimed in the tort action, regardless of whether the person has been convicted of or pleaded guilty to or has been charged with committing the felony, the misdemeanor, or the attempt to commit the felony or misdemeanor or (2) the person suffered the injury or loss for which relief is claimed in the tort action as a proximate result of the victim of conduct that, if prosecuted, would constitute a felony, a misdemeanor that is an offense of violence, an attempt to commit a felony, or an attempt to commit a misdemeanor that is an offense of violence acting against the person in self-defense, defense of another, or defense of the victim's residence, regardless of whether the person has been convicted of or pleaded guilty to or has been charged with committing the felony, the misdemeanor, or the attempt to commit the felony or misdemeanor (this provision does not apply if the person who suffered the injury or loss, at the time of the victim's act of self-defense, defense of another, or defense of residence, was an innocent bystander who had no connection with the underlying conduct that prompted the victim's exercise of self-defense, defense of another, or defense of residence) and provides that recovery against a victim of conduct that, if prosecuted, would constitute a felony, a misdemeanor that is an offense of violence, an attempt to commit a felony, or an attempt to commit a misdemeanor that is an offense of violence, on a claim for relief in a tort action is barred to any person or the person's legal representative if conduct the person engaged in against the victim was a proximate cause of the injury or loss for which relief is claimed in the tort action and that conduct, if prosecuted, would constitute a felony, a misdemeanor offense of violence, an attempt to commit a felony, or an attempt to commit a misdemeanor that is an offense of violence, regardless of whether the person has been convicted of or pleaded guilty to or has been charged with committing the felony, the misdemeanor, or the attempt to commit the felony or the misdemeanor (R.C. 2307.60(B)(2)(b) and (c) and (3)).

- Specifies that the immunity provisions described in the preceding dot point do not apply to civil claims based upon alleged intentionally tortious conduct, alleged violations of the United States Constitution, or alleged violations of statutes of the United States pertaining to civil rights (R.C. 2307.60(B)(4)).
- Specifies that, for purposes of the "intentionally tortious conduct" provision described in the preceding dot point, both as it relates to a provision in continuing law that bars recovery in specified circumstances by a person convicted of a felony or a misdemeanor offense of violence

and as it relates to the new immunity provisions described in the second preceding dot point, a person's act of self-defense, defense of another, or defense of the person's residence does not constitute intentionally tortious conduct (R.C. 2307.60(B)(4)).

- Provides that, for purposes of determining the potential liability of a person in a tort action related to the person's use of force alleged to be in self-defense, defense of another, or defense of the person's residence, if the person lawfully is in that person's residence, the person has no duty to retreat before using force in self-defense, defense of another, or defense of that person's residence, and if the person lawfully is an occupant of that person's vehicle or lawfully is an occupant in a vehicle owned by an immediate family member of the person, the person has no duty to retreat before using force in self-defense or defense of another (R.C. 2307.601).

Mandatory prison terms for firearms-related specifications

- Modifies former provisions regarding mandatory prison terms for firearms specification convictions by: (1) subjecting the former provision that specifies that a court cannot impose more than one prison term on an offender under the provisions for felonies committed as part of the same act or transaction to the provisions in clause (2) below, (2) specifying that, if an offender is convicted of or pleads guilty to two or more felonies, if one or more of the felonies is aggravated murder, murder, attempted aggravated murder, attempted murder, aggravated robbery, felonious assault, or rape, and if the offender also is convicted of a firearms specification in connection with two or more of the felonies, the sentencing court must impose on the offender the applicable firearms specification prison term for each of the two most serious specifications of which the offender is convicted or to which the offender pleads guilty and, in its discretion, also may impose on the offender the applicable firearms specification prison term for any or all of the remaining specifications, and (3) providing that a court may not impose any of the prison terms in continuing law for the firearms specifications in R.C. 2929.14(D)(1)(a) upon an offender for illegal conveyance or possession of a deadly weapon or dangerous ordnance in a school safety zone or illegal possession of an object indistinguishable from a firearm in a school safety zone that involves a deadly weapon that is a firearm other than a dangerous ordnance, improperly handling firearms in a motor vehicle, or illegal possession of a firearm in liquor permit premises (R.C. 2929.14(D)(1)(b), (e), and (g)).

- Modifies former provisions regarding mandatory prison terms for "discharge of a firearm at a peace officer or corrections officer" specification convictions by: (1) repealing the former provision that specifies that a court cannot impose more than one prison term on an offender under the provisions for felonies committed as part of the same act or transaction, and (2) specifying that, if an offender is convicted of two or more felonies that include, as an essential element, causing or attempting to cause the death or physical harm to another and also is convicted of a "discharge of a firearm at a peace officer or corrections officer" specification in connection with two or more of the felonies of which the offender is convicted, the sentencing court must impose on the offender the applicable prison term for each of two of the specifications of which the offender is convicted and, in its discretion, also may impose on the offender the applicable prison term for any or all of the remaining specifications (R.C. 2929.14(D)(1)(f)).

Offense of carrying concealed weapons

- Provides that the offense of "carrying concealed weapons" does not apply to a person's transportation or storage in a motor vehicle for any lawful purpose of a firearm other than a zip gun, explosive device, incendiary device, ballistic knife, dangerous ordnance, or explosive if the firearm is not on the actor's person (R.C. 2923.12(C)(1)(c)).
- Provides that the offense of "carrying concealed weapons" does not apply to a person's storage or possession in the actor's own home for any lawful purpose of a firearm other than a zip gun, explosive device, incendiary device, ballistic knife, dangerous ordnance, or explosive (R.C. 2923.12(C)(1)(d)).
- Removes the affirmative defense to the prohibition in the offense of "carrying concealed weapons" against a person knowingly carrying or having, concealed on the person's person or concealed ready at hand (control of), a weapon other than a handgun or a dangerous ordnance that (1) the actor was not otherwise prohibited by law from having the weapon, (2) the weapon was being transported in a motor vehicle for any lawful purpose, (3) the weapon was not on the actor's person, and (4) if the weapon was a firearm, it was unloaded and carried: (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 (former R.C. 2923.12(D)(4)).

- Removes the affirmative defense to the prohibition in the offense of "carrying concealed weapons" against a person carrying or having, concealed on the person's person or concealed ready at hand (having control), a handgun other than a dangerous ordnance that (1) the actor was not otherwise prohibited by law from having the handgun and (2) the handgun was carried or kept ready at hand by the actor for any lawful purpose and while in the actor's own home if prior to arriving at the actor's own home the actor did not transport or possess the handgun in a motor vehicle in a manner prohibited by R.C. 2923.16(B) or (C) while the motor vehicle was being operated on a street, highway, or other public or private property used by the public for vehicular traffic. (R.C. 2923.16(B) and (C) prohibit a person from knowingly transporting or having a firearm in a motor vehicle in such a manner that the firearm is accessible to the operator or any passenger without leaving the vehicle and from knowingly transporting or having a firearm in a motor vehicle unless the person may lawfully possess it, it is unloaded, and it is carried: (1) in a closed package, box, or case, (2) in a compartment reachable only by leaving the vehicle, or (3) in plain sight and secured in a rack or holder made for that purpose.) (Existing R.C. 2923.12(E).)
- Relocates to the offense of "illegal possession of a firearm in liquor permit premises" the increased penalty for "carrying concealed weapons" in violation of the prohibitions not specifically applicable to a person who has a license to carry a concealed handgun that is applicable when the offense involves a firearm and is committed at premises for which a D permit has been issued under R.C. Chapter 4303. (Liquor Control Law) (R.C. 2923.12(F)(1) and 2923.121(E)).
- Modifies the penalty for the prohibition in the offense of "carrying concealed weapons" against a concealed carry licensee, when stopped for a law enforcement purpose and carrying a concealed handgun, failing to promptly inform a law enforcement officer who approaches the licensee that the licensee has been issued a concealed carry license and is carrying a concealed handgun by specifying that if at the time of the stop, any law enforcement officer involved with the stop had actual knowledge that the offender has been issued a concealed carry license a violation of the prohibition is a minor misdemeanor (instead of a first degree

misdemeanor) and the offender's concealed carry license may not be suspended for the violation (R.C. 2923.12(F)(3) and 2923.128(A)(2)(c)).

- Provides that if a court orders a law enforcement officer to return a firearm surrendered by a person stopped for a possible violation of the prohibition against "carrying concealed weapons," for a traffic stop, or for any other law enforcement purpose in accordance with the continuing requirement that the law enforcement officer return the firearm if the person is not charged with "carrying concealed weapons" or arrested for any other offense, the person is not otherwise prohibited from possessing the firearm, and the firearm is not contraband, the act's new procedure for handling and returning surrendered firearms applies to the court ordered return of the firearm (see "*Procedure for storing and returning surrendered firearms*," below) (R.C. 2923.12(G) and 2923.163).

Procedure for storing and returning surrendered firearms

- Provides that if a law enforcement officer stops a person for any law enforcement purpose and the person surrenders for any reason a firearm to the officer, if a law enforcement officer stops a motor vehicle for any purpose and a person in the motor vehicle surrenders for any reason a firearm to the officer, or if a law enforcement officer otherwise seizes a firearm from a person, all of the following apply: (1) if the officer does not return the firearm to the person at the termination of the stop or otherwise promptly return the firearm to the person after its seizure, the officer or other personnel at the officer's law enforcement agency must maintain the firearm in a manner that if it subsequently is to be returned it can be identified and returned to the person in the same condition as when seized, and (2) if the officer does not so return the firearm to the person, if a court finds that the officer failed to return it after the person demanded its return, and if the court orders an officer to return the firearm to the person, the court also must award reasonable costs and attorney's fees to the person who sought the return of the firearm (R.C. 2923.163).

Offense of "illegal possession of a firearm in liquor permit premises"

- Modifies the offense of "illegal possession of a firearm in liquor permit premises" by replacing the prohibition against a person possessing a firearm in any room in which "liquor is being dispensed" in premises for which a D permit has been issued under R.C. Chapter 4303. with a

prohibition against a person possessing a firearm in any room in which *any person is consuming* liquor in premises for which such a permit has been issued (R.C. 2923.121(A), conforming change in R.C. 2923.126(B)(4)).

- Provides that the prohibitions in the offense of "illegal possession of a firearm in liquor permit premises," as modified by the act, do not apply to (1) the principal holder of a D permit issued for premises or an open air arena under R.C. Chapter 4303. while in the premises or open air arena for which the permit was issued if the principal holder of the D permit also possesses a concealed carry license and as long as the principal holder is not consuming liquor or under the influence of alcohol or a drug of abuse, (2) any agent or employee of a D permit holder described in clause (1) who is also a peace officer, as defined in R.C. 2151.3515, who is off duty, and who otherwise is authorized to carry firearms while in the course of the officer's official duties and while in the premises or open air arena for which the permit was issued and as long as the agent or employee of that holder is not consuming liquor or under the influence of alcohol or a drug of abuse, or (3) any person who is carrying a valid concealed handgun license and who possesses the firearm in a retail store with D-6 and D-8 permits issued for that store under R.C. 4303.182 and 4303.184, as long as the person is not consuming liquor or under the influence of alcohol or a drug of abuse (R.C. 2923.121(B)(1)(d) and (e)).
- Modifies the penalty for the offense of "illegal possession of a firearm in liquor permit premises" by relocating an increased penalty for carrying concealed weapons as described in the sixth dot point above under "**Offense of carrying concealed weapons**" to provide that if an offender commits the offense by knowingly carrying or having the firearm concealed on the offender's person or concealed ready at hand, the offense is a felony of the third degree (consistent with the relocated penalty under the offense of "carrying concealed weapons" but an increase from the felony of the fifth degree penalty for this offense under prior law) (R.C. 2923.121(E)).

Offenses of "illegal conveyance or possession of a deadly weapon or dangerous ordnance in a school safety zone" and "illegal possession of an object indistinguishable from a firearm in a school safety zone"

- Provides that the offenses of "illegal conveyance or possession of a deadly weapon or dangerous ordnance in a school safety zone" and

"illegal possession of an object indistinguishable from a firearm in a school safety zone" do not apply to a person who conveys or attempts to convey a handgun into, or possesses a handgun in, a school safety zone if at the time of that conveyance, attempted conveyance, or possession of the handgun all of the following apply: (1) the person is carrying a valid concealed handgun license, (2) the person is the driver or passenger in a motor vehicle and is in the school safety zone while immediately in the process of picking up or dropping off a child, and (3) the person is not in violation of R.C. 2923.16 (offense of "improperly handling firearms in a motor vehicle") (R.C. 2923.122(D)(4)).

Conditions for receiving concealed handgun license--sealed or expunged conviction, guilty plea, or delinquent child adjudication

- Provides that if an applicant for a license to carry a concealed handgun has been convicted of, pleaded guilty to, or adjudicated a delinquent child for committing a felony; an offense under R.C. Chapter 2925., 3719., or 4729. that involves the illegal possession, sale, use, administration, or distribution of or trafficking in a drug of abuse; assault when the victim is a peace officer; within three years of the application a misdemeanor offense of violence other than assault against a peace officer; resisting arrest that is a misdemeanor; or falsification of a concealed handgun license that is a misdemeanor, or within ten years of the application resisting arrest (all of the offenses that generally disqualify a person from receiving or retaining concealed carry license) and if a court has sealed or expunged that conviction, guilty plea, or adjudication or granted the applicant relief from a weapons disability with respect to the conviction, guilty plea, or adjudication, the sheriff with whom the application is submitted is not to consider the conviction, guilty plea, or adjudication when determining the applicant's eligibility for a concealed handgun license or a renewed concealed handgun license (including a temporary emergency license to carry a concealed handgun) (R.C. 2923.125(D)(5), (D)(1)(e), (f), and (h), and (F), 2923.1210 (conforming changes in the application form for a license to carry a concealed handgun) and 2923.1213(B)(3) (see below for provisions dealing with temporary emergency license application)).
- Provides that if a person seeking a temporary emergency license to carry a concealed handgun has been convicted of, pleaded guilty to, or been adjudicated a delinquent child for committing an offense listed in the previous dot point and if a court has ordered the sealing or expungement

of the records of that conviction, guilty plea, or adjudication or a court has granted the applicant relief from a weapons disability imposed relative to that conviction, guilty plea, or adjudication, the conviction, guilty plea, or adjudication is not relevant for purposes of the sworn affidavit that the person must complete in order to obtain the emergency license, and the person may complete and swear to the truth of the affidavit as if the conviction, guilty plea, or adjudication never occurred (R.C. 2923.1213(B)(3) and cross references in R.C. 2923.1213(B)(1)(b)).

Conditions for renewing concealed handgun license--time for filing application, competency certification, color photograph, and set of fingerprints

- Provides that a licensee who wishes to renew a license to carry a concealed handgun must do so no earlier than 90 days before the expiration date of the license (continuing law) *or at any time* (instead of not later than 30 days as under prior law) after the expiration date of the license (R.C. 2923.125(F)(1)).
- Replaces the provision specifying that if a person has received a competency certification *within the preceding six years* or previously has received a renewed competency certification *within the preceding six years* the person may obtain a renewed competency certification from an entity that offers a course, class, or program described in R.C. 2923.125(B)(3)(a), (b), (c), or (e) (a course, class, or program offered by the National Rifle Association and in compliance with continuing requirements; a course, class, or program open to the general public, taught by certified instructors, and offered by or under the auspices of a law enforcement agency, a postsecondary educational institution, firearms training school, or other type of public or private entity or organization; an approved state, county, municipal, or Department of Natural Resources peace officer training school; a basic firearms training program, firearms requalification training program, or basic firearms training program; or other course, class, or program that complies with the concealed handgun licensing law) by *passing a competency examination that includes a written section on the ability to name and explain the rules for the safe handling of a handgun and proper storage practices for handguns and ammunition and a physical demonstration of competence in the use of a handgun and in the rules for safe handling and storage of a handgun and a physical demonstration of the attitude necessary to shoot a handgun in a safe manner* with a provision specifying that, if a person previously has received a competency

certification or previously has received a renewed competency certification, the person may obtain a renewed competency certification from such a course, class, or program *by passing a test that demonstrates that the person is range competent*, provides that in these circumstances the person is not required to attend the course, class, or program or to take the competency examination described in prior law for the renewed competency certification in order to be eligible to receive a renewed competency certification, and provides that a renewed competency certification must be dated and must attest that the *person has demonstrated range competency* (R.C. 2923.125(G)(4)).

- Extends the civil immunity that is currently granted to an entity or instructor who provides a renewed competency certification to an entity or instructor that makes a good faith effort in assessing a person in the physical demonstrations described in the previous dot point (R.C. 2923.129(A)(4)(a)).
- Eliminates the requirement that an applicant for a renewed license to carry a concealed handgun submit with the application a *new color photograph of the licensee that was taken within 30 days prior to the date of the renewal application and a new set of fingerprints provided in the manner specified in continuing law regarding initial applications for a license to carry a concealed handgun* (R.C. 2923.125(F)(1)).
- Modifies the requirements with respect to submitting proof of competency certification with an application for a renewed license to carry a concealed handgun to require the applicant to submit one of the following: (1) *if the licensee previously has not renewed a license to carry a concealed handgun, proof that the licensee at one time had a competency certification of the type required for an initial license* (provides that a valid license is prima-facie evidence that the licensee at one time had a competency certification of that type) or (2) *if the licensee previously has renewed a license to carry a concealed handgun, a renewed competency certification described in R.C. 2923.125(G)(4)* (see third preceding dot point above for discussion of new requirements for getting a renewed competency certification); and makes conforming amendments to the procedure for a sheriff to accept a renewal application (R.C. 2923.125(F)).

Concealed handgun licensee--prohibited places

- Replaces the provision prohibiting a concealed handgun licensee from carrying a concealed handgun in any building that is owned by the state or a political subdivision of the state and all portions of any building leased by the state or a political subdivision of the state with a provision prohibiting a concealed handgun licensee from carrying a concealed handgun in any building that is a "government facility of this state or a political subdivision of this state" and that is not a building that is used primarily as a shelter, restroom, parking facility for motor vehicles, or rest facility and is not a courthouse or other building or structure in which a courtroom is located that is subject to 2925.126(B)(3) (defines "government facility of this state or a political subdivision of this state" to mean any of the following: (1) a building or part of a building that is owned or leased by the government of this state or a political subdivision of this state and where employees of the government of this state or the political subdivision regularly are present for the purpose of performing their official duties as employees of the state or political subdivision, or (2) the office of a deputy registrar serving pursuant to R.C. Chapter 4503. that is used to perform deputy registrar functions) (R.C. 2923.126(B)(9) and (G)(3)).
- Provides that the officer of this state or of a political subdivision of this state, or the officer's designee, who has charge of a "government facility of this state or a political subdivision of this state" as defined in the previous dot point and that is not a building that is used primarily as a shelter, restroom, parking facility for motor vehicles, or rest facility and is not a courthouse or other building or structure in which a courtroom is located that is subject to 2925.126(B)(3) must post a sign that contains a statement in substantially the following form: "Unless otherwise authorized by law, pursuant to the Ohio Revised Code, no person shall knowingly possess, have under the person's control, convey, or attempt to convey a deadly weapon or dangerous ordnance onto these premises" (replaces the former requirement that officer in charge of any building owned by the state or a political subdivision of this state or in charge of a portion of a building leased by such a governmental entity post such a sign) (R.C. 2923.1212(A)(9)).
- Replaces the provision prohibiting a concealed handgun licensee from carrying a concealed handgun in any room or open air arena in which liquor is being dispensed in premises for which a D permit has been

issued under R.C. Chapter 4303. in violation of R.C. 2923.121 with a prohibition prohibiting a concealed handgun licensee from carrying a concealed handgun in any premises or open air arena for which a D permit has been issued under R.C. Chapter 4303. if the licensee's carrying the concealed handgun is in violation of R.C. 2923.121 (see modification to offense of "illegal possession of a firearm in liquor permit premises" discussed above) (R.C. 2923.126(B)(4)).

- Provides that if the owner or person in control of private land or premises or a private person or entity leasing land or premises owned by a governmental entity posts in accordance with continuing law a sign in a conspicuous location on the land or premises prohibiting persons from carrying firearms or concealed firearms on the land or premises, if a person knowingly violates the posted prohibition, and if the posted land or premises primarily was a parking lot or other parking facility, the person who violates the posted prohibition is not guilty of criminal trespass and instead is subject only to a civil cause of action for trespass based on the violation (R.C. 2923.126(C)(3)(a)).
- Provides that a landlord may not prohibit or restrict a tenant who is a concealed handgun licensee and who on or after the effective date of the act enters into a rental agreement with the landlord for the use of residential premises, and the tenant's guest while the tenant is present from lawfully carrying or possessing a handgun on those premises and provides that this provision is an exception to the general authority of a person who is the owner or person in control of private premises or a private lessee of governmental premises to post a sign prohibiting persons from possessing firearms on those premises (see next dot point for definitions) (R.C. 2923.126(C)(3)(b)).
- Provides that for purposes of the previous dot point, "residential premises" has the same meaning as in the Landlord and Tenant Law, except it does not include a dwelling unit that is owned or operated by a college or university, and provides that "landlord," "tenant," and "rental agreement" have the same meanings as in the Landlord and Tenant Law (R.C. 2923.126(C)(3)(c)(i) and (ii)).

Retired peace officer identification cards

- Regarding the requirement that each public agency of this state or of a political subdivision of this state that is served by one or more peace

officers must issue a retired peace officer identification card to any person who retired from service as a peace officer with that agency if certain requirements are met, removes the requirement that the person have a nonforfeitable right to benefits under the retirement plan of that agency (R.C. 2923.126(F)(2)(a)(v)).

- Specifies that, if a retired peace officer who qualifies for a retired peace officer identification card successfully attends and completes an approved firearms requalification program, the retired peace officer is requalified for purposes of obtaining the rights of a concealed carry licensee for *five* years from the date on which the program was successfully completed (as opposed to one year under prior law) (R.C. 2923.126(F)(3)).

Suspension or revocation of concealed handgun license

- Specifies that if a sheriff who issues a concealed handgun license becomes aware that at the time of the issuance of the license the licensee had been convicted of, pleaded guilty to, or adjudicated a delinquent child for committing an offense listed above in the first dot point under "**Conditions for receiving concealed carry license--sealed or expunged conviction, guilty plea, or delinquent child adjudication**" or becomes aware that on or after the date on which the license was issued the licensee has been convicted of or pleaded guilty to an offense listed in that dot point, the sheriff is not to consider that conviction, guilty plea, or adjudication as having occurred for purposes of a suspension or revocation of the license if a court has ordered the sealing or expungement of the records of that conviction, guilty plea, or adjudication or a court has granted the licensee relief from a weapons disability imposed relative to that conviction, guilty plea, or adjudication (R.C. 2923.128(C) and cross references in R.C. 2923.128(A)(2)(a) and (3), (B)(1)(b) and (c), and (B)(2)).
- Provides that the concealed handgun license of a licensee who is convicted of or pleads guilty to a violation of the prohibition under the offense of carrying concealed weapons against a concealed handgun licensee, who is stopped for a law enforcement purpose and is carrying a concealed handgun, failing to promptly inform any law enforcement officer who approaches the person after the person has been stopped that the person has been issued a license or temporary emergency license to carry a concealed handgun and that the person then is carrying a

concealed handgun or who is convicted of a similar violation under the offense of improperly handling firearms in a motor vehicle is not to be suspended if, at the time of the stop of the licensee for a law enforcement purpose, for a traffic stop, or for a purpose defined in R.C. 5503.34 (commercial motor vehicle safety enforcement unit provisions) that was the basis of the violation, any law enforcement officer involved in the stop or the employee of the motor carrier enforcement unit who made the stop had actual knowledge of the licensee's status as a licensee (R.C. 2923.128(A)(2)(c) and cross references in R.C. 2923.128(A)(2)(a) and (3)).

- Provides that for purposes of R.C. 2923.128, "motor carrier enforcement unit" has the same meaning as in R.C. 2923.16 (as used in R.C. 2923.16, "motor carrier enforcement unit" means the motor carrier enforcement unit in the Department of Public Safety, Division of State Highway Patrol, that is created by section 5503.34 of the Revised Code) (R.C. 2923.128(D)).

Improperly handling firearms in a motor vehicle

- Regarding the prohibition in the offense of "improperly handling firearms in a motor vehicle" that prohibits a person from knowingly transporting or having a firearm in a motor vehicle unless the firearm is unloaded and is carried in a specified manner (e.g., in a closed package, box, or case, in a compartment that can be reached only by leaving the vehicle, in plain sight and secured in a rack or holder, or in plain sight with the action open or the weapon stripped, etc.), revises the prohibition so that, to avoid being in violation of the prohibition, a person also will have to lawfully possess the firearm under applicable law of Ohio or the United States and modifies one of the permissible methods of carrying the firearm to provide that *if the firearm is at least 24 inches in overall length as measured from the muzzle to the part of the stock furthest from the muzzle and if the barrel is at least 18 inches in length* (added by the act), the firearm must be either 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 be stripped, in plain sight (R.C. 2923.16(C)).
- Regarding the prohibition in the offense of "improperly handling firearms in a motor vehicle" that prohibits a person from knowingly transporting or having a loaded handgun in a motor vehicle if, at the time of that

transportation or possession, the person is under the influence of alcohol, a drug of abuse, or a combination of them or the person's whole blood, blood serum or plasma, breath, or urine contains a concentration of alcohol prohibited for persons operating a vehicle under the offense of state OVI or state OVUAC, regardless of whether the person is the operator of or a passenger in the vehicle, expands the prohibition so that it also applies if the person's whole blood, blood serum or plasma, breath, or urine contains a listed controlled substance or a listed metabolite of a controlled substance prohibited for persons operating a vehicle under the offense of state OVI or state OVUAC, regardless of whether the person is the operator of or a passenger in the vehicle (R.C. 2923.16(D)).

- Regarding the prohibition in the offense of "improperly handling firearms in a motor vehicle" that prohibits a person who has been issued a license or temporary emergency license to carry a concealed handgun (a concealed carry licensee) from transporting or having a loaded handgun in a motor vehicle unless it is done in a specified manner, revises the prohibition so that it prohibits a concealed handgun licensee from transporting or possessing a loaded handgun in a motor vehicle unless: (1) the loaded handgun is in a holster on the licensee's person (continuing law), (2) the loaded handgun is in a closed case, bag, box, or other container that is in plain sight and that has a lid, a cover, or a closing mechanism with a zipper, snap, or buckle, which lid, cover, or closing mechanism must be opened for a person to gain access to the handgun (continuing law), or (3) the handgun is securely encased by being stored in a closed glove compartment (continuing law requires that the glove compartment also be locked) or vehicle console (added by the act) or in a case that is locked (R.C. 2923.16(E)).
- Regarding the prohibition in the offense of "improperly handling firearms in a motor vehicle" that prohibits a person from knowingly transporting or having a loaded firearm in a motor vehicle in such a manner that the firearm is accessible to the operator or any passenger without leaving the vehicle and the prohibition in that offense that is described in the third preceding dot point:
 - (1) Modifies the provision that exempts from the prohibition a concealed handgun licensee who is carrying a valid concealed handgun license or a similar license issued by another state that is given reciprocity in Ohio, who is not knowingly in a prohibited place specified in R.C. 2923.126(B), and who is transporting or

possesses a handgun in a specified manner so that, in order for the exemption to apply, the licensee must be carrying the valid license, not knowingly be in a prohibited place, and be transporting or possessing the handgun in one of the following manners: (a) it is in a holster on the licensee's person (continuing law), (b) it is in a closed case, bag, box, or other container that is in plain sight and that has a lid, a cover, or a closing mechanism with a zipper, snap, or buckle, which lid, cover, or closing mechanism must be opened for a person to gain access to the handgun (continuing law), or (c) it is securely encased by being stored in a closed glove compartment (continuing law requires that the glove compartment also be locked) or vehicle console (added by the act) or in a case that is locked (R.C. 2923.16(F)(4)).

- (2) Modifies the provision that provides that it is an affirmative defense to the prohibition that the actor transported or had the firearm in the motor vehicle for a lawful purpose and while the vehicle was on the actor's own property, and that the actor prior to arriving at his or her own property, did not transport or possess the firearm in a vehicle in a manner prohibited by either prohibition while on a street, highway, or other public or private property used by the public for vehicular traffic so that, in order for the affirmative defense to apply, the actor immediately (added by the act) prior to arriving at his or her own property, did not transport or possess the firearm in a vehicle in a manner prohibited by either prohibition while on a street, highway, or other public or private property used by the public for vehicular traffic (R.C. 2923.16(G)(2)).
- Regarding the prohibition in the offense of "improperly handling firearms in a motor vehicle" that prohibits a concealed handgun licensee who is in a motor vehicle that is stopped for any law enforcement purpose and who possesses a loaded handgun in the vehicle from failing to promptly inform any law enforcement officer who approaches that the person is a licensee and possesses a loaded handgun, changes the penalty for a violation of the prohibition so that: (1) except as provided in clause (2), it is a misdemeanor of the first degree, and the offender's license or temporary emergency license to carry a concealed handgun must be suspended (continuing law), and (2) if, at the time of the stop of the offender for the law enforcement purpose, any law enforcement officer involved with the stop had actual knowledge of the offender's status as a

licensee, it is a minor misdemeanor, and the offender's license or temporary emergency license to carry a concealed handgun cannot be suspended (R.C. 2923.16(I)).

- Regarding the prohibition in the offense of "improperly handling firearms in a motor vehicle" that prohibits a concealed handgun licensee who is in a commercial motor vehicle that is stopped by an employee of the Motor Carrier Enforcement Unit for an authorized purpose and who possesses a loaded handgun in the vehicle from failing to promptly inform the employee of the Unit who approaches that the person is a licensee and possesses a loaded handgun, changes the penalty for a violation of the prohibition so that: (1) except as provided in clause (2), it is a misdemeanor of the first degree, and the offender's license or temporary emergency license to carry a concealed handgun must be suspended (continuing law), and (2) if, at the time of the stop of the offender for the law enforcement purpose, the employee of the Unit who made the stop had actual knowledge of the offender's status as a licensee, it is a minor misdemeanor, and the offender's license or temporary emergency license to carry a concealed handgun cannot be suspended (R.C. 2923.16(I)).

Return of firearm after seizure from motor vehicle

- Provides that, if a law enforcement officer stops a motor vehicle for any purpose, if any person in the vehicle surrenders a firearm to the officer, and if a court orders a law enforcement officer to return a firearm to a person pursuant to a provision of continuing law (the provision requires the firearm to be returned if the officer does not charge the person with a violation of a prohibition in the offense of "improperly handling firearms in a motor vehicle" or arrest the person for any offense, the person is not otherwise prohibited by law from possessing the firearm, and the firearm is not contraband), the act provides that if a court orders a law enforcement officer to return a firearm to a person pursuant to the above procedures, R.C. 2923.163 as enacted by the act applies (R.C. 2923.16(J)).

Definition of unloaded

- Redefines the term "unloaded" that applies for purposes of the offense of "improperly handling firearms in a motor vehicle" so that it means: (1) no ammunition is in the firearm in question, and no ammunition is loaded into a magazine or speed loader that may be used with the firearm in

question and that is located anywhere within the vehicle in question, without regard to where ammunition otherwise is located within the vehicle in question (added by the act), or (2) with respect to a firearm employing a percussion cap, flintlock, or other obsolete ignition system, when the weapon is uncapped or when the priming charge is removed from the pan (continuing law) (R.C. 2923.16(K)(5)).

HISTORY

ACTION	DATE
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Reported, S. Judiciary - Criminal Justice	04-16-08
Passed Senate (31-0)	04-16-08
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