



S.B. 318

127th General Assembly
(As Introduced)

Sens. Faber, Grendell, Schaffer, Seitz, Mumper, Coughlin, Buehrer, Austria, Amstutz, Cafaro

BILL SUMMARY

- Replaces the bar against persons who have been issued a license to carry a concealed handgun or a temporary emergency license to carry a concealed handgun (hereafter, collectively referred to as concealed carry licensees) carrying a concealed handgun into specified governmental buildings with a bar against a concealed carry licensee carrying a concealed handgun into any of the following premises: (1) any building not located in a state park or rest area that is owned by Ohio and all portions of any building not located in a state park or rest area that is not owned by Ohio but that is leased by Ohio, if the building is used for a primary executive, legislative, or judicial function, or (2) any building not located in a park or rest area that is owned by any Ohio political subdivision and all portions of any building not located in a park or rest area that is leased by the political subdivision, if the building is used for a government function.
- Modifies the bar against a concealed carry licensee carrying a concealed handgun into a school safety zone or into a room or open air arena in which liquor is being dispensed in premises for which a D permit to conform to changes it makes in the criminal offenses that prohibit in specified circumstances a concealed carry licensee from carrying a concealed handgun into school safety zone or from carrying a concealed handgun into a room or open air arena in which liquor is being dispensed in premises for which a D permit has been issued.
- Specifies that general bar against a concealed carry licensee from carrying a concealed handgun into any premises owned or leased by any public or private college, university, or other institution of higher education, into any church, synagogue, mosque, or other place of

worship, into any child day-care center or type A, type B, or type C family day-care home, or any governmental buildings as described in the first dot point do not apply to a person if both of the following circumstances apply: (1) the person is carrying or possesses an unloaded handgun in a closed package, box, or case, and (2) at the time of the carrying or possession of the unloaded handgun, the person is carrying a valid license or temporary emergency license to carry a concealed handgun issued under Ohio law or a license to carry a concealed handgun issued to the person by another state with which the Attorney General (the AG) has entered into a reciprocity agreement under Ohio law.

- Specifies that a landlord may not prohibit or restrict a tenant who is a concealed carry licensee and who, on or after the bill's effective date, 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 residential premises (generally defined as in the Landlord and Tenant Law but excluding dwelling units owned or operated by a college or university).
- Revises provisions that currently require the posting of warnings in governmental buildings in which a concealed carry license is barred by law from carrying a concealed handgun so that the warnings must be posted by the officer of the state or of an Ohio political subdivision, or the officer's designee, who has charge of a building owned by the state or the Ohio political subdivision that is not located in a park or rest area and is used either for a primary executive, legislative, or judicial function or for a governmental function, or who has charge of the portion of a building not owned by any governmental entity listed in this paragraph that is leased by a governmental entity listed in this paragraph, is not located in a park or rest area, and is used either for a primary executive, legislative, or judicial function or for a governmental function.
- Provides that the existing 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. or in an open air arena for which a permit of that nature has been issued does not apply to a person when all of the following circumstances apply: (1) the person has been issued a license or temporary emergency license to carry a concealed handgun under Ohio law or a license to carry a concealed handgun issued by another state with which the AG has entered into a

reciprocity agreement under Ohio law, (2) the person is carrying a concealed handgun, and (3) the holder of the D permit does not allow consumption of beer, wine, or intoxicating liquor in the room or premises on which the room is located.

- Provides that the existing prohibitions against a person knowingly conveying or attempting to convey a deadly weapon or dangerous ordnance into a school safety zone, knowingly possessing a deadly weapon or dangerous ordnance in a school safety zone, or knowingly possessing an object in a school safety zone if the object is indistinguishable from a firearm 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 license or temporary emergency license to carry a concealed handgun issued under Ohio law or a license to carry a concealed handgun issued by another state with which the AG has entered into a reciprocity agreement under Ohio law, (2) the person is the driver or passenger in a motor vehicle and is in a designated pick-up or drop-off area of the school safety zone for the purpose of picking up or dropping off the person's child, and (3) the person is not in violation of R.C. 2923.16 regarding possessing the firearm in a motor vehicle.
- Regarding the offense of "carrying concealed weapons": (1) provides that the prohibitions that constitute that offense do not apply to any person who is transporting in a motor vehicle for any lawful purpose a weapon that is not on the actor's person and, if the weapon is a firearm, who is in compliance with the applicable requirements of R.C. 2923.16(C) regarding possessing firearms in a motor vehicle (the R.C. 2923.16(C) requirements prohibit a person from knowingly transporting or having a firearm in a motor vehicle, unless it is unloaded and is carried: 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 made for the purpose; or 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), and (2) corresponding to the enactment of the exemption described in clause (1) of this paragraph, eliminates an existing affirmative defense that currently applies to a charge that pertains to carrying or having control of a weapon other than a handgun and other than a dangerous ordnance.

- Redefines "unloaded" for purposes of the prohibitions that constitute the offense of "improperly handling firearms in a motor vehicle" so that it means either of the following: (1) 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, and (2) with respect to a firearm not described in clause (1), no ammunition is in the firearm without regard to where any ammunition for the firearm is otherwise located in the motor vehicle.
- Revises the procedures for renewing a license to carry a concealed handgun and regarding renewed competency certifications so that: (1) a concealed carry licensee who wishes to renew the license must do so not earlier than 90 days before the expiration date of the license or at any time after the expiration date of the license by filing with the sheriff of the county in which the applicant resides or with the sheriff of an adjacent county a renewal application, a license renewal fee unless it is waived, and either: (a) 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 initial applications for a concealed carry license, or (b) if the licensee previously has renewed a license to carry a concealed handgun, a renewed competency certification of the type described in the second succeeding paragraph, (2) specifying that a person who previously has received a competency certification of the type required for initial applications or a competency certification based on the applicant's military or law enforcement service, or who previously has received a renewed competency certification, may obtain a renewed competency certification from an entity that offers a specified firearms course, class, or program by passing a test that demonstrates that the person is range competent (in these circumstances, the person is not required to attend a course, class, or program or to take an examination in order to be eligible to receive a renewed competency certification).
- Modifies the existing immunity provision for an entity or instructor that provides a renewed competency certification to provide immunity from civil liability that might otherwise be incurred or imposed for any death or any injury or loss to person or property that was caused by or related to a person to whom the entity or instructor had issued the renewed competency certificate if the entity or instructor makes a good faith effort in assessing the person in the competency examination conducted as

described in the preceding dot point, and the entity or instructor did not issue the renewed competency certificate with malicious purpose, in bad faith, or in a wanton or reckless manner.

- Revises the existing provisions regarding a sheriff's recordkeeping and record destruction duties related to concealed carry licenses as follows: (1) providing that, if a criminal records check and an incompetency records check conducted by the sheriff do not indicate that the applicant fails to meet the criteria for issuance of a license, the sheriff generally must destroy or cause a designated employee to destroy fingerprints and information received by the sheriff that were generated as a result of the checks within 20 days after conducting the checks, (2) specifying that, if the provisions described in clause (1) of this dot point apply to a particular criminal records check or incompetency records check, no sheriff, employee of a sheriff designated to destroy records, source the sheriff used in conducting the check, or employee of the source designated to destroy records may fail to destroy or cause to be destroyed within the applicable 20-day period fingerprints and information generated in connection with the particular check, and (3) specifying that, except for a limited journalist exception provided in R.C. 2923.129, all records maintained by the sheriff for the operation of concealed carry licensing are not public records for purposes of the state's Public Records Law.
- In provisions that grant certain retired peace officers the same right to carry a concealed handgun in Ohio as a concealed carry licensee and subject them to the same restrictions that apply to a concealed carry licensee who carries a license: (1) removes the requirement that a retired peace officer have a nonforfeitable right to benefits under the retirement plan of the agency issuing the identification card in order to obtain a retired peace officer identification card from the agency from which the officer retired, and (2) specifies that, if a retired peace officer who satisfies the criteria for obtaining a retired peace officer identification card attends a firearm requalification program that is approved for purposes of firearms requalification required under R.C. 109.801, the retired peace officer's successful completion of the requalification program requalifies the retired peace officer for purposes of obtaining the rights of a concealed carry licensee for five years from the date on which the program was successfully completed.

- Specifies that no law enforcement officer, person acting as a law enforcement officer, or other public official may confiscate or attempt to confiscate any lawfully carried or lawfully owned firearm in a declared emergency or disaster.

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CONTENT AND OPERATION

Existing law sets forth procedures pursuant to which a person who satisfies specified criteria may apply for and receive a license to carry a concealed handgun or a temporary emergency license to carry a concealed handgun (hereafter referred to as a "concealed carry license"). A person who obtains either type of license is exempt from certain provisions of the state's Firearms Law if the person carries the license in a specified manner but also is subjected to certain provisions that apply only to persons who have obtained one of those types of license. A person who obtains either type of license generally may carry a concealed handgun anywhere in the state, subject to a list of prohibited premises, if the person also carries his or her valid license and valid identification when the person is in actual possession of a concealed handgun. The list of prohibited premises identifies certain types of places and locales at which or in which a person who has obtained either type of license may not carry a concealed handgun. (R.C. 2923.124 to 2923.1213.) In succeeding parts of this analysis, a person who obtains either type of license to carry a concealed handgun is referred to as a "concealed carry licensee."

Concealed carry licensee--right to carry a concealed handgun and limitations on that right

Existing law

Existing law provides that, except as described in the next paragraph, a concealed carry licensee may carry a concealed handgun anywhere in the state if the licensee also carries a valid license and valid identification when the licensee is in actual possession of a concealed handgun. The licensee must give notice of any change in the licensee's residence address to the sheriff who issued the license within 45 days after that change.

A valid license issued to a concealed carry licensee does not authorize the licensee to carry a concealed handgun in any manner prohibited under R.C. 2923.12(B), regarding conduct expressly prohibited for concealed carry licensees, or in any manner prohibited under R.C. 2923.16 (see "**Definition of 'unloaded' for purposes of offense of 'improperly handling firearms in a motor vehicle'**", below). A valid license does not authorize the concealed carry licensee to carry a concealed handgun into any of the following places: (1) a police station, sheriff's office, or state highway patrol station, premises controlled by the Bureau of

Criminal Identification and Investigation (BCII), a state correctional institution, jail, workhouse, or other detention facility, an airport passenger terminal, or an institution maintained, operated, managed, and governed pursuant to R.C. 5119.02(A) or 5123.03(A)(1), (2) a school safety zone, in violation of R.C. 2923.122, (3) a courthouse or another building or structure in which a courtroom is located, in violation of R.C. 2923.123, (4) a 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, (5) premises owned or leased by any public or private college, university, or other institution of higher education, unless the handgun is in a locked motor vehicle or the licensee is in the immediate process of placing it in a locked motor vehicle, (6) a church, synagogue, mosque, or other place of worship, unless the church, synagogue, mosque, or other place of worship posts or permits otherwise, (7) a child day-care center, type A family day-care home, type B family day-care home, or type C family day-care home (this provision does not prohibit a concealed carry licensee who resides in a type A, B, or C family day-care home from carrying a concealed handgun at any time in any part of the home not dedicated or used for day-care purposes, or in a part of the home dedicated or used for day-care purposes at any time during which no children, other than children of that licensee, are in the home), (8) an aircraft in, or intended for operation in, foreign air transportation, interstate air transportation, intrastate air transportation, or the transportation of mail by aircraft, (9) a building owned by Ohio or any Ohio political subdivision, and all portions of any building not owned by any governmental entity listed in this clause but leased by such a governmental entity listed in this clause, or (10) a place in which federal law prohibits the carrying of handguns. Hereafter, the premises described in this paragraph are referred to as "concealed carry prohibited places."

Existing law specifies that none of its provisions in R.C. 2923.126: (1) negate or restrict a rule, policy, or practice of a private employer that is not a private college, university, or other institution of higher education concerning or prohibiting the presence of firearms on the private employer's premises or property, including motor vehicles owned by the private employer, or (2) require a private employer of the nature described in clause (1) of this paragraph to adopt a rule, policy, or practice concerning or prohibiting the presence of firearms on the private employer's premises or property, including motor vehicles owned by the private employer.

Under existing law, the owner or person in control of private land or premises, and a private person or entity leasing land or premises owned by Ohio, the United States, or a political subdivision of Ohio or the United States, may post a sign in a conspicuous location on that land or on those premises prohibiting persons from carrying firearms or concealed firearms on or onto that land or those

premises. A person who knowingly violates a posted prohibition of that nature is guilty of criminal trespass in violation of R.C. 2911.21(A)(4) and is guilty of a misdemeanor of the fourth degree.

Under existing law: (1) a person who holds a license to carry a concealed handgun issued pursuant to the law of another state that is recognized by the Attorney General (the AG) pursuant to a reciprocity agreement entered into pursuant to existing law has the same right to carry a concealed handgun in Ohio as a person who was issued a license to carry a concealed handgun and is subject to the same restrictions that apply to a person who carries such a license, (2) a peace officer has the same right to carry a concealed handgun in Ohio as a person issued a license to carry a concealed handgun, and, for purposes of reciprocity with other states, a peace officer is considered to be a concealed carry licensee in Ohio, and (3) a "qualified retired peace officer" who possesses a "retired peace officer identification card" and a valid "firearms requalification certification" issued pursuant to specified provisions of law (see "*Rights of a concealed carry licensee--when afforded to retired peace officer and duration of rights*," below) has the same right to carry a concealed handgun in Ohio as a person issued a license to carry a concealed handgun and is subject to the same restrictions that apply to a person who carries such a license, and, for purposes of reciprocity with other states, a qualified retired peace officer who possesses such a retired peace officer identification card and such a valid firearms requalification certification is considered to be a licensee in Ohio.

Operation of the bill

The bill changes the existing provisions that specify "concealed carry prohibited places" and that otherwise identify premises at which a concealed carry licensee cannot carry a concealed handgun as follows:

(1) **Governmental building**. Existing law specifies that a valid concealed license does not authorize a concealed carry licensee to carry a concealed handgun into a building owned by Ohio or any Ohio political subdivision or into all portions of any building not owned by any governmental entity listed in this sentence but leased by such a governmental entity. The bill modifies this provision by barring a concealed carry licensee from carrying a concealed handgun into any of the following premises: (a) any building that is not located in a state park or rest area and that is owned by Ohio and all portions of any building that is not located in a state park or rest area and that is not owned by Ohio but that is leased by Ohio, if the building is used for a primary executive, legislative, or judicial function, or (b) any building that is not located in a park or rest area and that is owned by any Ohio political subdivision and all portions of any building that is not located in a park or rest area and that is leased by the political subdivision, if the building is used for a government function as defined in

existing R.C. 2744.01 (see **COMMENT**). This provision does not affect the existing provisions that prohibit a concealed carry license from carrying a concealed handgun into certain explicitly listed types of government premises-- e.g., a police station, detention facility, courthouse in violation of R.C. 2923.123, or public college, university, or other institution of higher education, etc. (R.C. 2923.126(B)(9)(a) and (B).)

(2) **School safety zone**. Existing law specifies that a valid concealed carry license does not authorize a concealed carry licensee to carry a concealed handgun into a school safety zone in violation of R.C. 2923.122 (R.C. 2923.126(B)(2)). The bill modifies R.C. 2923.122, as described below in "**Offense of 'illegal conveyance or possession of a deadly weapon or dangerous ordnance in a school safety zone'**;" thus, this existing provision applies when a concealed carry licensee carries a concealed handgun into a school safety zone in violation of R.C. 2923.122 as amended by the bill. (R.C. 2923.126(B)(2) and 2923.122.)

(3) **D liquor permit premises**. Existing law specifies that a valid concealed carry license does not authorize a concealed carry licensee to carry a concealed handgun into a 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 (R.C. 2923.126(B)(4)). The bill modifies R.C. 2923.121, as described below in "**Offense of 'illegal possession of a firearm in liquor permit premises'**;" thus, this existing provision applies when a concealed carry licensee carries a concealed handgun into a 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 as amended by the bill. (R.C. 2923.126(B)(4) and 2923.121.)

(4) **Exemption regarding institutions of higher education, places of worship, day-care facilities, and governmental buildings, in certain circumstances**. It specifies that the existing "concealed carry prohibited places" that include (1) any premises owned or leased by any public or private college, university, or other institution of higher education (unless the handgun is in a locked motor vehicle or the licensee is in the immediate process of placing it in a locked motor vehicle), (2) any church, synagogue, mosque, or other place of worship, unless the church, synagogue, mosque, or other place of worship posts or permits otherwise, (3) any child day-care center, type A family day-care home, type B family day-care home, or type C family day-care home (provided that it does not prohibit a concealed carry licensee who resides in a type A, B, or C family day-care home from carrying a concealed handgun at any time in any part of the home not dedicated or used for day-care purposes, or in a part of the home dedicated or used for day-care purposes at any time during which no children, other than children of that licensee, are in the home), and the provisions described

above in "**Governmental building**" do not apply to a person if both of the following circumstances apply: (a) the person is carrying or possesses an unloaded handgun in a closed package, box, or case, and (b) at the time of the carrying or possession of the unloaded handgun, the person is carrying a valid license or temporary emergency license to carry a concealed handgun issued under Ohio law or a license to carry a concealed handgun issued to the person by another state with which the AG has entered into a reciprocity agreement under R.C. 109.69 (R.C. 2923.126(B) and (G)).

(5) **Exemption regarding certain rental residential premises.** Existing law specifies that the owner or person in control of private land or premises, and a private person or entity leasing land or premises owned by Ohio, the United States, or a political subdivision of Ohio or the United States, may post a sign in a conspicuous location on that land or on those premises prohibiting persons from carrying firearms or concealed firearms on or onto that land or those premises, and a person who knowingly violates a posted prohibition of that nature is guilty of criminal trespass. The bill enacts an exception to this provision that specifies that a "landlord" may not prohibit or restrict a "tenant" who is a concealed carry licensee and who, on or after the bill's effective date, 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 residential premises. As used in this provision, "landlord," "tenant," and "rental agreement" have the same meanings as in R.C. 5321.01 (the existing Landlord and Tenant Law, not in the bill), and "residential premises" means a dwelling unit for residential use and occupancy and the structure of which it is a part, the facilities and appurtenances in it, and the grounds, areas, and facilities for the use of tenants generally or the use of which is promised the tenant, except that "residential premises" does not include a dwelling unit owned or operated by a college or university (residential premises does not include prisons, jails, workhouses, halfway houses, hospitals, tourist homes, hotels, motels, recreational vehicle parks, elementary and boarding schools, orphanages, and other locations specified in R.C. 5321.01(C)). (R.C. 2923.126(C)(3).)

Posting of warning sign at certain concealed carry prohibited places

Existing law

Existing law requires certain specified persons, boards, entities, and bodies, or designees, to post in specified locations a sign that states that, unless otherwise authorized by law, pursuant to the Ohio Revised Code, no person may knowingly possess, have under the person's control, convey, or attempt to convey a deadly weapon or dangerous ordnance onto the premises or, in relation to a school safety zone, into the school safety zone. The persons, boards, entities, and bodies, or designees, and the specified locations, to which the provision applies are: (1) the

Director of Public Safety or the person or board charged with the erection, maintenance, or repair of police stations, municipal jails, and the municipal courthouse and courtrooms, in a conspicuous location at all such stations, jails, courthouses, and courtrooms, (2) the sheriff or sheriff's designee who has charge of the sheriff's office, in a conspicuous location in that office, (3) the Superintendent of the State Highway Patrol or his or her designee, in a conspicuous location at all State Highway Patrol stations, (4) each sheriff, chief of police, or person in charge of every local jail, workhouse, correctional facility, community-based correctional facility, halfway house, alternative residential facility, or other local or state correctional institution or detention facility within the state, or that person's designee, in a conspicuous location at that facility under that person's charge, (5) the board of trustees of a regional airport authority, chief administrative officer of an airport facility, or other person in charge of an airport facility, in a conspicuous location at each airport facility under that person's control, (6) the officer or officer's designee who has charge of a courthouse or a building or structure in which a courtroom is located, in a conspicuous location in that building or structure, (7) BCII's Superintendent or his or her designee, in a conspicuous location in all premises controlled by BCII, (8) the owner, administrator, or operator of a child day-care center, or of a type A, type B, or type C family day-care home, (9) the officer of the state or of the Ohio political subdivision, or the officer's designee, who has charge of a building owned by the state or the Ohio political subdivision, or who has charge of the portion of a building that is not owned by any governmental entity listed in this clause but that is leased by a governmental entity listed in this clause, and (10) regarding a school safety zone, all of the following: (a) a board of education of a city, local, exempted village, or joint vocational school district or that board's designee, in a conspicuous location in each building and on each parcel of real property owned or controlled by the board, (b) a governing body of a school for which the state board of education prescribes minimum standards or that body's designee, in a conspicuous location in each building and on each parcel of real property owned or controlled by the school, and (c) the principal or chief administrative officer of a nonpublic school, in a conspicuous location on property owned or controlled by that nonpublic school. (R.C. 2923.1212.)

Operation of the bill

The bill revises the existing warning-posting provisions as they apply regarding governmental buildings, as described above in clause (9) of the preceding paragraph. Under the bill, the warning regarding governmental buildings must be posted by the officer of the state or of an Ohio political subdivision, or the officer's designee, who has charge of a building that is owned by the state or the Ohio political subdivision *and that is not located in a park or rest area and that is used either for a primary executive, legislative, or judicial*

function or for a governmental function, as defined in existing R.C. 2744.01 (see COMMENT), or who has charge of the portion of a building that is not owned by any governmental entity listed in this paragraph, that is leased by a governmental entity listed in this paragraph, and that is not located in a park or rest area and that is used either for a primary executive, legislative, or judicial function or for a governmental function, as defined in existing R.C. 2744.01. (R.C. 2923.1212(A)(9).)

Note that this change is similar, but not identical, to the bill's changes to the provisions that specify governmental buildings as concealed carry prohibited places, as described above in "Operation of the bill" under "Concealed carry licensee--right to carry a concealed handgun and limitations on that right."

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

Existing law

Existing law prohibits a person from 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. or in an open air arena for which a permit of that nature has been issued. A violation of the prohibition is the offense of "illegal possession of a firearm in liquor permit premises," a felony of the fifth degree.

The prohibition described in the preceding paragraph does not: (1) apply to any officer, agent, or employee of Ohio or any other state or the United States, or to a law enforcement officer, who is authorized to carry firearms and is acting within the scope of the officer's, agent's, or employee's duties, (2) apply to any person employed in Ohio who is authorized to carry firearms and who is subject to and in compliance with the firearms requalification requirements of R.C. 109.801, unless the appointing authority of the person has expressly specified that this exemption does not apply to the person, (3) apply to any room used for the accommodation of guests of a hotel, as defined in R.C. 4301.01, (4) prohibit any person who is a member of a veteran's organization from possessing a rifle in any room in any premises owned, leased, or otherwise under the control of the veteran's organization, if the rifle is not loaded with live ammunition and if the person otherwise is not prohibited by law from having the rifle, or (5) apply to any person possessing or displaying firearms in any room used to exhibit unloaded firearms for sale or trade in a soldiers' memorial established pursuant to R.C. Chapter 345., in a convention center, or in any other public meeting place, if the person is an exhibitor, trader, purchaser, or seller of firearms and is not otherwise prohibited by law from possessing, trading, purchasing, or selling the firearms.

It is an affirmative defense to a charge of a violation of the prohibition described in the second preceding paragraph that involves the possession of a

firearm other than a handgun, that the actor was not otherwise prohibited by law from having the firearm, and that any of the following apply: (1) the firearm was carried or kept ready at hand by the actor for defensive purposes, while the actor was engaged in or was going to or from the actor's lawful business or occupation, which business or occupation was of such character or was necessarily carried on in such manner or at such a time or place as to render the actor particularly susceptible to criminal attack, such as would justify a prudent person in going armed, or (2) the firearm was carried or kept ready at hand by the actor for defensive purposes, while the actor was engaged in a lawful activity, and had reasonable cause to fear a criminal attack upon the actor or a member of the actor's family, or upon the actor's home, such as would justify a prudent person in going armed.

No person who is charged with a violation of the prohibition described in the third preceding paragraph may be required to obtain a license or temporary emergency license to carry a concealed handgun as a condition for the dismissal of the charge. (R.C. 2923.121.)

Operation of the bill

The bill provides that the existing 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. or in an open air arena for which a permit of that nature has been issued does not apply to a person when all of the following circumstances apply: (1) the person has been issued a license or temporary emergency license to carry a concealed handgun under Ohio law or a license to carry a concealed handgun issued by another state with which the AG has entered into a reciprocity agreement under R.C. 109.69, (2) the person is carrying a concealed handgun, and (3) the holder of the D permit does not allow consumption of "beer," "wine," or "intoxicating liquor" (all as defined in existing R.C. 4301.01, which is not in the bill) in the room or premises on which the room is located (R.C. 2923.121).

Offense of "illegal conveyance or possession of a deadly weapon or dangerous ordnance in a school safety zone"

Existing law

Existing law prohibits a person from knowingly conveying, or attempting to convey, a deadly weapon or dangerous ordnance into a school safety zone, and from knowingly possessing a deadly weapon or dangerous ordnance in a school safety zone. A violation of this prohibition is the offense of "illegal conveyance or possession of a deadly weapon or dangerous ordnance in a school safety zone." Generally, the offense is a felony of the fifth degree, but if the offender previously

has been convicted of the offense or the offense described in the next paragraph, it is a felony of the fourth degree. The law also provides driver's license and permit suspensions for offenders who have not attained 19 years of age.

Existing law also prohibits a person from knowingly possessing an object in a school safety zone if the "object is indistinguishable from a firearm" (an object made, constructed, or altered so that, to a reasonable person without specialized training in firearms, the object appears to be a firearm), whether or not the object is capable of being fired, and if either the person indicates that the person possesses the object and that it is a firearm or the person knowingly displays or brandishes the object and indicates that it is a firearm. This prohibition does not apply to premises upon which home schooling is conducted, and does not apply to a school administrator, teacher, or employee who possesses an object that is indistinguishable from a firearm for legitimate school purposes during the course of employment, a student who uses an object that is indistinguishable from a firearm under the direction of a school administrator, teacher, or employee, or any other person who with the express prior approval of a school administrator possesses an object that is indistinguishable from a firearm for a legitimate purpose, including the use of the object in a ceremonial activity, a play, reenactment, or other dramatic presentation, or a ROTC activity or another similar use of the object. A violation of this prohibition is the offense of "illegal possession of an object indistinguishable from a firearm in a school safety zone." Generally, the offense is a misdemeanor of the first degree, but if the offender previously has been convicted of that offense or the offense described in the preceding paragraph, it is a felony of the fifth degree. The law also provides driver's license and permit suspensions for offenders who have not attained 19 years of age.

The prohibitions described in the two preceding paragraphs do not apply to: (1) an officer, agent, or employee of Ohio or any other state or the United States, or a law enforcement officer, who is authorized to carry deadly weapons or dangerous ordnance and is acting within the scope of the officer's, agent's, or employee's duties, a security officer employed by a board of education or governing body of a school during the time that the security officer is on duty pursuant to that contract of employment, or any other person who has written authorization from the board of education or governing body of a school to convey deadly weapons or dangerous ordnance into a school safety zone or to possess a deadly weapon or dangerous ordnance in a school safety zone and who conveys or possesses the deadly weapon or dangerous ordnance in accordance with that authorization, (2) any person employed in Ohio who is authorized to carry deadly weapons or dangerous ordnance and who is subject to and in compliance with the firearms requalification requirements of R.C. 109.801, unless the appointing

authority of the person has expressly specified that this exemption does not apply to the person.

The prohibitions described above also 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 does not enter into a school building or onto school premises and is not at a school activity, (2) the person is carrying a valid license or temporary emergency license to carry a concealed handgun issued to the person under section 2923.125 or 2923.1213 of the Revised Code or a license to carry a concealed handgun that was issued by another state with which the AG has entered into a reciprocity agreement under section 109.69 of the Revised Code, (3) the person is in the school safety zone in accordance with 18 U.S.C. 922(q)(2)(B), and (4) the person is not knowingly in a concealed carry prohibited place.

Operation of the bill

The bill provides that the existing prohibitions against a person knowingly conveying or attempting to convey a deadly weapon or dangerous ordnance into a school safety zone, knowingly possessing a deadly weapon or dangerous ordnance in a school safety zone, or knowingly possessing an object in a school safety zone if the object is indistinguishable from a firearm 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 license or temporary emergency license to carry a concealed handgun issued under Ohio law or a license to carry a concealed handgun issued by another state with which the AG has entered into a reciprocity agreement under R.C. 109.69, (2) the person is the driver or passenger in a motor vehicle and is in a designated pick-up or drop-off area of the school safety zone for the purpose of picking up or dropping off the person's child, and (3) the person is not in violation of R.C. 2923.16 (see "**Definition of 'unloaded' for purposes of offense of 'improperly handling firearms in a motor vehicle'**," below) regarding possessing the firearm in a vehicle (R.C. 2923.122).

Offense of "carrying concealed weapons"--exemption in certain circumstances for weapon transported in a motor vehicle

Existing law

Prohibitions that apply to any person. Existing law prohibits any person from knowingly carrying or having, concealed on the person's person or concealed ready at hand, any of the following: (1) a deadly weapon other than a handgun,

(2) a handgun other than a dangerous ordnance, or (3) a dangerous ordnance. A violation of this prohibition is the offense of "carrying concealed weapons." Generally, the violation is a misdemeanor of the first degree. If the offender previously has been convicted of carrying concealed weapons or 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, it 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 R.C. Chapter 4303. or if the offense is committed aboard an aircraft, or with purpose to carry a concealed weapon aboard an aircraft, regardless of the weapon involved, it is a felony of the third degree. Special penalties are provided if the person who violates the prohibition is a concealed carry licensee or has been issued a license to carry a concealed handgun that was issued by another state with which the AG has entered into a reciprocity agreement and produces the license within a specified period of time after arrest or if the person formerly was such a licensee, the license expired within the two years immediately preceding the arrest, and the person within a specified period of time after arrest produces a license. (R.C. 2923.12(A) and (G)(1) and (2).)

Prohibitions that apply to concealed carry licensees. Existing law also prohibits a concealed carry licensee or a person who has been issued a license to carry a concealed handgun issued by another state with which the AG has entered into a reciprocity agreement from doing any of the following: (1) if the person 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, (2) if the person is stopped for a law enforcement purpose and is carrying a concealed handgun, knowingly failing to keep the person's hands in plain sight at any time after any law enforcement officer begins approaching the person while stopped and before the officer leaves, unless the failure is pursuant to and in accordance with directions given by the officer, (3) if the person is stopped for a law enforcement purpose, is carrying a concealed handgun, and is approached by any law enforcement officer while stopped, knowingly removing or attempting to remove the loaded handgun from the holster, pocket, or other place in which the person is carrying it, knowingly grasping or holding the loaded handgun, or knowingly having contact with the loaded handgun by touching it with the person's hands or fingers at any time after the law enforcement officer begins approaching and before the officer leaves, unless the person removes, attempts to remove, grasps, holds, or has contact with the loaded handgun pursuant to and in accordance with directions given by the officer, or (4) if the person is stopped for a law enforcement purpose and is carrying a concealed handgun, knowingly disregarding or failing to comply with any lawful order of

any law enforcement officer given while the person is stopped, including, but not limited to, a specific order to the person to keep the person's hands in plain sight.

A violation of this prohibition also is the offense of "carrying concealed weapons." A violation of the portion of the prohibition described in clause (1) of the preceding paragraph is a misdemeanor of the first degree, and, in addition to any other penalty or sanction imposed for the violation, the offender's license or temporary emergency license to carry a concealed handgun must be suspended pursuant to R.C. 2923.128(A)(2). A violation of the portion of the prohibition described in clause (2) or (4) of the preceding paragraph is a misdemeanor of the first degree or, if the offender previously has been convicted of or pleaded guilty to a violation of either portion, a felony of the fifth degree; in addition to any other penalty or sanction imposed for the violation, the offender's license or temporary emergency license to carry a concealed handgun must be suspended pursuant to R.C. 2923.128(A)(2). A violation of the portion of the prohibition described in clause (3) of the preceding paragraph is a felony of the fifth degree. (R.C. 2923.12(B) and (G)(3) to (5).)

Exemptions. The prohibitions described above in the paragraphs entitled "**Prohibitions that apply to any person**" and "**Prohibitions that apply to concealed carry licenses**" do not apply to any of the following: (1) an officer, agent, or employee of Ohio or any other state or the United States, or to a law enforcement officer, who is authorized to carry concealed weapons or dangerous ordnance or is authorized to carry handguns and is acting within the scope of the officer's, agent's, or employee's duties, or (2) any person employed in Ohio who is authorized to carry concealed weapons or dangerous ordnance or is authorized to carry handguns and who is subject to and in compliance with the firearms requalification requirements of existing R.C. 109.801, unless the appointing authority of the person has expressly specified that this exemption does not apply to the person. The portion of the prohibition described above in the paragraph entitled "**Prohibitions that apply to any person**" that pertains to the carrying or having handguns other than dangerous ordnance does not apply to any person who, at the time of the alleged carrying or possession of a handgun, is carrying a valid Ohio license or temporary emergency license to carry a concealed handgun or a license to carry a concealed handgun issued by another state with which the AG has entered into a reciprocity agreement, unless the person knowingly is in a concealed carry prohibited place. (R.C. 2923.12(C).)

Affirmative defenses. Existing law provides that it is an affirmative defense to a charge under the portion of the prohibition described above in the paragraph entitled "**Prohibitions that apply to any person**" that pertains to carrying or having control of a weapon other than a handgun and other than a dangerous ordnance that the actor was not otherwise prohibited by law from

having the weapon and that any of the following applies: (1) the weapon was carried or kept ready at hand by the actor for defensive purposes while the actor was engaged in or was going to or from the actor's lawful business or occupation, which business or occupation was of a character or was necessarily carried on in a manner or at a time or place as to render the actor particularly susceptible to criminal attack, such as would justify a prudent person in going armed, (2) the weapon was carried or kept ready at hand by the actor for defensive purposes while the actor was engaged in a lawful activity and had reasonable cause to fear a criminal attack upon the actor, a member of the actor's family, or the actor's home, such as would justify a prudent person in going armed, (3) the weapon was carried or kept ready at hand by the actor for any lawful purpose and while in the actor's own home, or (4) the weapon was being transported in a motor vehicle for any lawful purpose, was not on the actor's person, and, if the weapon was a firearm, was carried in compliance with the applicable requirements of R.C. 2923.16(C), as described below in "*Definition of 'unloaded' for purposes of offense of 'improperly handling firearms in a motor vehicle'.*"

Existing law also provides that it is an affirmative defense to a charge under the portion of the prohibition described above in the paragraph entitled "*Prohibitions that apply to any person*" that pertains to carrying or having control of a handgun other than a dangerous ordnance that the actor was not otherwise prohibited by law from having the handgun and that the handgun was carried or kept ready at hand by the actor for any lawful purpose and while in the actor's own home, provided that this affirmative defense is not available unless the actor, prior to arriving at the actor's own home, did not transport or possess the handgun in a motor vehicle in a manner prohibited by R.C. 2923.16(B) or (C) (see "*Definition of 'unloaded' for purposes of offense of 'improperly handling firearms in a motor vehicle'.*" below) 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. 2923.12(D) and (E).)

Operation of the bill

The bill provides a new exemption from all of the prohibitions described above under "*Existing law.*" Under the bill, in addition to the exemptions from those prohibitions currently provided under existing law, the prohibitions do not apply to any person who is transporting in a motor vehicle for any lawful purpose a weapon that is not on the actor's person and, if the weapon is a firearm, who is in compliance with the applicable requirements of R.C. 2923.16(C). The R.C. 2923.16(C) requirements, described in more detail below in "*Definition of 'unloaded' for purposes of offense of 'improperly handling firearms in a motor vehicle'.*" prohibit a person from knowingly transporting or having a firearm in a motor vehicle, unless it is unloaded and is carried 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 made for the purpose, or 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. (R.C. 2923.12(C)(1)(c).)

Corresponding to the new exemption described in the preceding paragraph, the bill eliminates the existing affirmative defense that currently applies to a charge under the portion of the prohibition described above under "Existing law" in the paragraph entitled "Prohibitions that apply to any person" that pertains to carrying or having control of a weapon other than a handgun and other than a dangerous ordnance. Because the bill enacts the exemption described in the preceding paragraph and the language of that exemption parallels the language of the affirmative defense, the affirmative defense no longer will be necessary. (Repeal of R.C. 2923.12(D)(4).)

Definition of "unloaded" for purposes of offense of "improperly handling firearms in a motor vehicle"

Existing law

Prohibitions that apply to any person. Existing law prohibits any person from knowingly doing any of the following: (1) discharging a firearm while in or on a motor vehicle, (2) transporting or having a *loaded* firearm (see "Definition of "unloaded"," below) in a motor vehicle in such a manner that the firearm is accessible to the operator or any passenger without leaving the vehicle, (3) transporting or having a firearm in a motor vehicle, unless it is *unloaded* (see "Definition of "unloaded"," below) and is carried in one of the following ways: (a) in a closed package, box, or case, (b) in a compartment that can be reached only by leaving the vehicle, (c) in plain sight and secured in a rack or holder made for the purpose, or (d) in plain sight with the action open or the weapon stripped, or, if the firearm is of a type on which the action will not stay open or which cannot easily be stripped, in plain sight, or (4) 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, as specified in R.C. 4511.19(A), regardless of whether the person at the time of the transportation or possession as described in this division is the operator of or a passenger in the motor vehicle. (R.C. 2923.16(A) to (D).)

A violation of the prohibition described in the preceding paragraph is the offense of "improperly handling firearms in a motor vehicle." A violation of the portion of the prohibition described in clause (1) is a felony of the fourth degree, a

violation of the portion described in clause (3) is a misdemeanor of the fourth degree, and a violation of the portion described in clause (4) is a felony of the fifth degree or, if the loaded handgun is concealed on the person's person, a felony of the fourth degree. A violation of the portion of the prohibition described in clause (2) generally is a felony of the fourth degree, except that if, at the time of the transportation or possession in question, the offender was carrying a valid Ohio license or temporary emergency license to carry a concealed handgun or a license to carry a concealed handgun issued by another state with which the AG has entered into a reciprocity agreement and the offender was not knowingly in a concealed carry prohibited place, the violation is a misdemeanor of the first degree or, if the offender previously has been convicted of or pleaded guilty to a violation of that portion of the prohibition, a felony of the fourth degree. (R.C. 2923.16(I).)

Prohibitions that apply to concealed carry licensees. Existing law prohibits any concealed carry licensee from doing any of the following (R.C. 2923.16(E)):

(1) Knowingly transporting or having a *loaded* handgun in a motor vehicle unless one of the following applies: (a) the loaded handgun is in a holster on the person's person, (b) 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, or (c) the loaded handgun is securely encased by being stored in a closed, locked glove compartment or in a case that is locked.

(2) If the person is transporting or has a *loaded* handgun in a motor vehicle in a manner authorized as described in the preceding paragraph, knowingly removing or attempting to remove the loaded handgun from the holster, case, bag, box, container, or glove compartment, knowingly grasping or holding the loaded handgun, or knowingly having contact with the loaded handgun by touching it with the person's hands or fingers while the motor vehicle is being operated on a street, highway, or public property unless the person removes, attempts to remove, grasps, holds, or has the contact with the loaded handgun pursuant to and in accordance with directions given by a law enforcement officer;

(3) If the person is the driver or an occupant of a motor vehicle stopped as a result of a traffic stop or a stop for another law enforcement purpose or is the driver or an occupant of a commercial motor vehicle that is stopped by an employee of the motor carrier enforcement unit for the purposes defined in R.C. 5503.34, and if the person is transporting or has a *loaded* handgun in the vehicle in any manner, failing to do any of the following that is applicable: (a) if the person is the driver or an occupant of a motor vehicle stopped as a result of a traffic stop or a stop for another law enforcement purpose, fail to promptly inform any law

enforcement officer who approaches the vehicle while stopped that the person has been issued a license or temporary emergency license to carry a concealed handgun and then possesses or has a loaded handgun in the vehicle, or (b) if the person is the driver or an occupant of a commercial motor vehicle stopped by an employee of the motor carrier enforcement unit for any of the defined purposes, fail to promptly inform the employee who approaches the vehicle while stopped that the person has been issued a license or temporary emergency license to carry a concealed handgun and then possesses or has a loaded handgun in the vehicle.

(4) If the person is the driver or an occupant of a motor vehicle stopped as a result of a traffic stop or a stop for another law enforcement purpose and is transporting or has a *loaded* handgun in the motor vehicle in any manner, knowingly failing to remain in the motor vehicle while stopped or knowingly failing to keep the person's hands in plain sight at any time after any law enforcement officer begins approaching the person while stopped and before the officer leaves, unless the failure is pursuant to and in accordance with directions given by the officer;

(5) If the person is the driver or an occupant of a motor vehicle stopped as a result of a traffic stop or a stop for another law enforcement purpose, if the person is transporting or has a *loaded* handgun in the motor vehicle in a manner authorized as described in paragraph (1), above, and if the person is approached by any law enforcement officer while stopped, knowingly removing or attempting to remove the loaded handgun from the holster, case, bag, box, container, or glove compartment, knowingly grasping or holding the loaded handgun, or knowingly having contact with the loaded handgun by touching it with the person's hands or fingers in the motor vehicle at any time after the law enforcement officer begins approaching and before the officer leaves, unless the person removes, attempts to remove, grasps, holds, or has contact with the loaded handgun pursuant to and in accordance with directions given by the officer;

(6) If the person is the driver or an occupant of a motor vehicle stopped as a result of a traffic stop or a stop for another law enforcement purpose and the person is transporting or has a *loaded* handgun in the motor vehicle in any manner, knowingly disregarding or failing to comply with any lawful order of any law enforcement officer given while the motor vehicle is stopped, including, but not limited to, a specific order to the person to keep the person's hands in plain sight.

A violation of the prohibition described above in paragraph (3) of this part of the analysis is a misdemeanor of the first degree, and, in addition to any other penalty or sanction imposed for the violation, the offender's license or temporary emergency license to carry a concealed handgun must be suspended pursuant to R.C. 2923.128(A)(2). A violation of any prohibition described above in paragraph (1), (2), or (5) of this part of the analysis is a felony of the fifth degree. A

violation of either prohibition described above in paragraph (4) or (6) of this part of the analysis is a misdemeanor of the first degree or, if the offender previously has been convicted of or pleaded guilty to a violation of either of those prohibitions, a felony of the fifth degree. In addition to any other penalty or sanction imposed for a misdemeanor violation of either prohibition described above in paragraph (4) or (6) of this part of the analysis, the offender's license or temporary emergency license to carry a concealed handgun must be suspended pursuant to R.C. 2923.128(A)(2). (R.C. 2923.16(I).)

Definition of "unloaded". Existing law specifies that, as used in all of the prohibitions described above, "unloaded" means, 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 (R.C. 2923.12(K)(5)).

Operation of the bill

The bill redefines "unloaded" for purposes of the prohibitions described above in "**Prohibitions that apply to any person**" and "**Prohibitions that apply to concealed carry licensees**" under "**Existing law**." Under the bill, "unloaded" means either of the following: (1) 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, and (2) with respect to a firearm not described in clause (1), no ammunition is in the firearm without regard to where any ammunition for the firearm is otherwise located in the motor vehicle (R.C. 2923.16(K)(5)).

Renewal of concealed carry license--change in procedures and required competency certification

Existing law

Existing law specifies that a concealed carry licensee who wishes to renew a license to carry a concealed handgun issued in Ohio must do so not earlier than 90 days before the expiration date of the license and not later than 30 days after the expiration date of the license by filing with the sheriff of the county in which the applicant resides or with the sheriff of an adjacent county an application for renewal of the license a new color photograph of the licensee that was taken within 30 days prior to the date of the renewal application, a certification by the applicant that, subsequent to the issuance of the license, the applicant has reread the pamphlet prepared by the Ohio Peace Officer Training Commission (OPOTC) that reviews firearms, dispute resolution, and use of deadly force matters, a new set of fingerprints provided in the manner specified for initial applications for a concealed carry license, and a nonrefundable license renewal fee unless the fee is

waived. The licensee also must submit a competency certification of the type required for initial applications for a concealed carry license that is not older than six years or a renewed competency certification of the type described in the third succeeding paragraph that is not older than six years. A sheriff must accept a completed renewal application and the fee, items, materials, and information specified in this paragraph at the times and in the manners specified by another provision of law.

Upon receipt of a completed renewal application, color photograph, certification that the applicant has reread the specified pamphlet prepared by OPOTC, new set of fingerprints, competency certification or renewed competency certification, and license renewal fee unless the fee is waived, a sheriff, in the manner specified in R.C. 311.41 (see "**Records possessed by sheriff in connection with concealed carry licensing--destruction and maintenance provisions,**" below), must conduct or cause to be conducted the criminal records check and the incompetency records check described in that section. The sheriff must renew the license if the sheriff determines that the applicant continues to satisfy the requirements for issuance of an initial license to carry a concealed handgun (set forth in R.C. 2923.125(D)(1)), except that the applicant is required to submit a renewed competency certification only in specified circumstances described below. A renewed license that is renewed on or after March 14, 2007, expires five years after the date of issuance, and a renewed license that is renewed prior to that date expires four years after the date of issuance. If a sheriff denies the renewal of a license to carry a concealed handgun, the applicant may appeal the denial, or challenge the criminal record check results that were the basis of the denial if applicable, in the same manner as is specified regarding the denial of an initial license to carry a concealed handgun. (R.C. 2923.125(F).)

Under existing law, each course, class, or program that may provide a competency certification for an applicant for an initial license to carry a concealed handgun (other than a competency certification based on the applicant's military or law enforcement service) must provide to each person who takes the course, class, or program a copy of the pamphlet prepared by OPOTC that reviews firearms, dispute resolution, and use of deadly force matters. Each such course, class, or program must include at least 12 hours of training in the safe handling and use of a firearm that must include all of the following: (1) at least ten hours of training on the ability to name, explain, and demonstrate the rules for safe handling of a handgun and proper storage practices for handguns and ammunition, the ability to demonstrate and explain how to handle ammunition in a safe manner, the ability to demonstrate the knowledge, skills, and attitude necessary to shoot a handgun in a safe manner, and gun handling training, and (2) at least two hours of training that consists of range time and live-fire training. To satisfactorily complete the course, class, or program, the applicant must pass a competency examination that must

include both 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. The competency certification must be dated and attest that the course, class, or program the applicant successfully completed met the requirements described in this paragraph and that the applicant passed the required competency examination. (R.C. 2923.125(G)(1) to (3).)

A person who has received a competency certification as described in the preceding paragraph or a competency certification based on the applicant's military or law enforcement service, or who previously has received a renewed competency certification as described in this paragraph, may obtain a renewed competency certification as described in this paragraph. If the 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 the preceding paragraph by passing a competency examination of the type described in that paragraph. In these circumstances, the person is not required to attend the course, class, or program in order to be eligible to take the competency examination for the renewed competency certification. If more than six years has elapsed since the person last received a competency certification or a renewed competency certification, in order for the person to obtain a renewed competency certification, the person must both satisfactorily complete a course, class, or program as described in the preceding paragraph and pass a competency examination of the type described in that paragraph. A renewed competency certification issued under this provision must be dated and attest that the applicant passed the competency examination of the type described in the preceding paragraph and, if applicable, that the person successfully completed a course, class, or program that met the requirements described in that paragraph. (R.C. 2923.125(G)(4).)

Operation of the bill

The bill revises the procedures for renewing a license to carry a concealed handgun and regarding renewed competency certifications. Under the bill, a concealed carry licensee who wishes to renew a license to carry a concealed handgun issued in Ohio must do so not earlier than 90 days before the expiration date of the license *or at any time* (replaces "not later than 30 days") after the expiration date of the license by filing with the sheriff of the county in which the applicant resides or with the sheriff of an adjacent county an application for renewal of the license, a nonrefundable license renewal fee unless the fee is

waived, and 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 initial applications for a concealed carry license (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 of the type described in the second succeeding paragraph. A sheriff must accept a completed renewal application, the license renewal fee, and information specified in this paragraph at the times and in the manners specified by another provision of law.

Upon receipt of a completed renewal application, of proof of a prior competency certification for an initial renewal or of a renewed competency certification for a second or subsequent renewal, and of a license renewal fee unless the fee is waived, a sheriff, in the manner specified in R.C. 311.41 must conduct or cause to be conducted the criminal records check and the incompetency records check described in R.C. 311.41. The sheriff must renew the license if the sheriff determines that the applicant continues to satisfy the requirements for issuance of an initial license to carry a concealed handgun, except that the applicant is not required to meet the requirements for issuance or an initial license that pertain to submission of a competency certification. As under existing law, a renewed license that is renewed on or after March 14, 2007, expires five years after the date of issuance, a renewed license that is renewed prior to that date expires four years after the date of issuance, and, if a sheriff denies the renewal of a license, the applicant may appeal the denial, or challenge the criminal record check results that were the basis of the denial if applicable, in the same manner as is specified regarding the denial of an initial license to carry a concealed handgun. (R.C. 2923.125(F).)

Under the bill, 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 an entity that offers a course, class, or program described in the third paragraph under "Existing law" by passing a test that demonstrates that the person is range competent. In these circumstances, the person is not required to attend the course, class, or program or to take the competency examination for the renewed competency certification in order to be eligible to receive a renewed competency certification. A renewed competency certification issued under this provision must be dated and attest that the applicant has demonstrated range competency. (R.C. 2923.125(G)(4).)

Immunity for renewed competency entity or instructor

Existing law

Existing law provides that an entity that or instructor who provides a renewed competency certification of a type described in R.C. 2923.125(G)(4), as described above in "**Existing law**" under "**Renewal of concealed carry license--change in procedures and required competency certification,**" is immune from civil liability that might otherwise be incurred or imposed for any death or any injury or loss to person or property that *is caused by or related to* a person to whom the entity or instructor *has issued the renewed competency certificate* if the entity or instructor makes a good faith effort in assessing the person in the competency examination conducted *pursuant to R.C. 2923.125(G)(2)* as described above in "**Existing law**" under "**Renewal of concealed carry license--change in procedures and required competency certification,**" and the entity or instructor did not issue the renewed competency certificate with malicious purpose, in bad faith, or in a wanton or reckless manner. (R.C. 2923.129(B)(4).)

Operation of the bill

The bill modifies the existing immunity provision so that an entity that or instructor who provides a renewed competency certification of a type described in R.C. 2923.125(G)(4), is immune from civil liability that might otherwise be incurred or imposed for any death or any injury or loss to person or property that *was caused by or related to* a person to whom the entity or instructor *had issued the renewed competency certificate* if the entity or instructor makes a good faith effort in assessing the person in the competency examination conducted *pursuant to R.C. 2923.125(G)(4)*, and the entity or instructor did not issue the renewed competency certificate with malicious purpose, in bad faith, or in a wanton or reckless manner. (R.C. 2923.129(B)(4).)

Records possessed by sheriff in connection with concealed carry licensing--destruction and maintenance provisions

Existing law

Existing law provides that, upon receipt of an application for a license to carry a concealed handgun, an application to renew a license to carry a concealed handgun, or an application for a temporary emergency license to carry a concealed handgun, a sheriff must conduct a criminal records check and an incompetency check of the applicant to determine whether the applicant fails to meet the criteria described in R.C. 2923.125(D)(1) for issuance or renewal of the license. The sheriff must conduct the records checks through use of an electronic fingerprint reading device or, if the sheriff does not possess and does not have ready access to

the use of an electronic fingerprint reading device, by requesting BCII to conduct the checks.

In order to conduct the criminal records check and the incompetency records check, the sheriff must obtain the fingerprints of at least four fingers of the applicant by using an electronic fingerprint reading device for the purpose of conducting the checks or, if the sheriff does not possess and does not have ready access to the use of an electronic fingerprint reading device, must obtain from the applicant a completed standard fingerprint impression sheet. The fingerprints so obtained, along with the applicant's Social Security number, must be used to conduct the criminal records check and the incompetency records check. If the sheriff does not use an electronic fingerprint reading device, the sheriff must submit the completed standard fingerprint impression sheet of the applicant, along with the applicant's Social Security number, to BCII and must request it to conduct the criminal records check and incompetency records check of the applicant and, if necessary, must request BCII to obtain information from the FBI as part of the criminal records check for the applicant. If it is not possible to use an electronic fingerprint reading device to conduct an incompetency records check, the sheriff must submit the completed standard fingerprint impression sheet of the applicant, along with the applicant's Social Security number, to BCII and must request it to conduct the incompetency records check. The sheriff cannot retain the applicant's fingerprints as part of the application.

Except as otherwise described in this paragraph, if at any time the applicant decides not to continue with the application process, the sheriff immediately must cease any investigation that is being conducted. The sheriff cannot cease that investigation if, at the time of the applicant's decision not to continue with the application process, the sheriff had determined from any of the sheriff's investigations that the applicant then was engaged in activity of a criminal nature.

If a criminal records check and an incompetency records check conducted as described above do not indicate that the applicant fails to meet the criteria described in R.C. 2923.125(D)(1) for issuance or renewal of the license, except as otherwise described in this paragraph, the sheriff must destroy or cause a designated employee to destroy all records other than the application for a license, the application to renew a license, or the affidavit submitted regarding an application for a temporary emergency license that were made in connection with the criminal records check and incompetency records check within 20 days after conducting the criminal records check and incompetency records check. If an applicant appeals a denial of an application or challenges the results of a criminal records check, records of fingerprints of the applicant cannot be destroyed during the pendency of the appeal or the challenge and review. When an applicant appeals a denial, the 20-day period described in this paragraph commences

regarding the fingerprints upon the determination of the appeal. When required as a result of a challenge and review, the source the sheriff used in conducting the criminal records check must destroy or the chief operating officer of the source must cause an employee of the source designated by the chief to destroy all records other than the application for a license, the application to renew a license, or the affidavit submitted regarding an application for a temporary emergency license that were made in connection with the criminal records check within 20 days after completion of that challenge and review.

If the provisions described in the preceding paragraph apply to a particular criminal records check or incompetency records check, no sheriff, employee of a sheriff designated by the sheriff to destroy records, source the sheriff used in conducting the criminal records check or incompetency records check, or employee of the source designated by the chief operating officer of the source to destroy records can fail to destroy or cause to be destroyed within the applicable 20-day period specified in that paragraph all records other than the application for a license, the application to renew a license, or the affidavit submitted regarding an application for a temporary emergency license made in connection with the particular criminal records check or incompetency records check. A violation of this prohibition is the offense of "failure to destroy records," a misdemeanor of the second degree. (R.C. 311.41.)

Operation of the bill

The bill revises the existing provisions regarding a sheriff's recordkeeping and record destruction duties as follows:

(1) Under the bill, if a criminal records check and an incompetency records check conducted by a sheriff as described above in "**Existing law**" do not indicate that the applicant fails to meet the criteria described in R.C. 2923.125(D)(1) for issuance or renewal of the license, except as otherwise described in this paragraph, the sheriff must destroy or cause a designated employee to destroy *fingerprints and information received by the sheriff* that were generated as a result of the criminal records check and incompetency records check within 20 days after conducting the criminal records check and incompetency records check. The bill retains the existing provisions regarding retention and destruction when an applicant appeals a denial of an application or challenges the results of a criminal records check. Under the bill, when required as a result of a challenge and review, the source the sheriff used in conducting the criminal records check must destroy or the chief operating officer of the source must cause an employee of the source designated by the chief to destroy *fingerprints and information generated* in connection with the criminal records check within 20 days after completion of that challenge and review. (R.C. 311.41(B).)

(2) Under the bill, if the provisions described in the preceding paragraph apply to a particular criminal records check or incompetency records check, no sheriff, employee of a sheriff designated by the sheriff to destroy records, source the sheriff used in conducting the criminal records check or incompetency records check, or employee of the source designated by the chief operating officer of the source to destroy records may fail to destroy or cause to be destroyed within the applicable 20-day period specified in that paragraph *fingerprints and information generated* in connection with the particular criminal records check or incompetency records check. As under existing law, a violation of this prohibition is the offense of "failure to destroy records," a misdemeanor of the second degree. (R.C. 311.41(C) and (E).)

(3) The bill specifies that, except as provided in R.C. 2923.129 (see below), all records maintained by the sheriff for the operation of concealed carry licensing, including, but not limited to, applications, receipts, lists, suspension reports, and revocation reports, are not public records for purposes of the state's Public Records Law (R.C. 311.41(D)). Under existing R.C. 2923.129(B)(1), unchanged by the bill, with a limited exception provided for journalists in specified circumstances, the records a sheriff keeps relative to the issuance, renewal, suspension, or revocation of a license or temporary emergency license to carry a concealed handgun, including, but not limited to, completed applications for the issuance or renewal of a license, affidavits, reports of criminal records checks and incompetency records checks, and applicants' Social Security numbers and fingerprints obtained under R.C. 311.41, are confidential and are not public records. Thus, it appears that the bill's provision is a conforming change that reflects current R.C. 2923.129(B) and does not substantively change the law.

Rights of a concealed carry licensee--when afforded to retired peace officer and duration of rights

Existing law

Existing law provides that a "qualified retired peace officer" (see below) who possesses a "retired peace officer identification card" (see below) issued pursuant to a specified provision of law and a valid firearms requalification certification issued pursuant to a specified provision of law has the same right to carry a concealed handgun in Ohio as a concealed carry licensee and is subject to the same restrictions that apply to a concealed carry licensee who carries a license. For purposes of reciprocity with other states, a qualified retired peace officer who possesses a retired peace officer identification card and a valid firearms requalification certification is considered to be a concealed carry licensee in Ohio.

Each public agency of Ohio or of an Ohio political subdivision 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 the issuance is in accordance with the agency's policies and procedures and if the person, with respect to the person's service with that agency, satisfies all of the following: (1) the person retired in good standing from service as a peace officer with the public agency, and the retirement was not for reasons of mental instability, (2) before retiring from service as a peace officer with that agency, the person was authorized to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law and the person had statutory powers of arrest, (3) at the time of the person's retirement as a peace officer with that agency, the person was trained and qualified to carry firearms in the performance of the officer's duties, (4) before retiring from service as a peace officer with that agency, the person was regularly employed as a peace officer for an aggregate of 15 years or more, or, in the alternative, the person retired from service as a peace officer with that agency, after completing any applicable probationary period of that service, due to a service-connected disability, as determined by the agency, and (5) the person has a nonforfeitable right to benefits under the retirement plan of that agency.

A retired peace officer identification card issued to a person as described in the preceding paragraph must identify the person by name, contain a photograph of the person, identify the public agency of Ohio or of the Ohio political subdivision from which the person retired as a peace officer and that is issuing the identification card, and specify that the person retired in good standing from service as a peace officer with the issuing public agency and satisfies the specified criteria. In addition to the required content, a retired peace officer identification card may include the firearms requalification certification described in the next paragraph, and if the identification card includes that certification, the identification card serves as the firearms requalification certification for the retired peace officer. If the issuing public agency issues credentials to active law enforcement officers who serve the agency, the agency may comply with the requirements of the preceding paragraph by issuing the same credentials to persons who retired from service as a peace officer with the agency and who satisfy the criteria set forth in that paragraph, provided that the credentials so issued to retired peace officers are stamped with the word "RETIRED." A public agency may charge persons who retired from service as a peace officer with the agency a reasonable fee for issuing to the person a retired peace officer identification card.

If a person retired from service as a peace officer with a public agency of Ohio or of an Ohio political subdivision and the person satisfies the criteria set forth in the second preceding paragraph, the public agency may provide the retired peace officer with the opportunity to attend a firearms requalification program that

is approved for purposes of firearms requalification required under R.C. 109.801. The retired peace officer may be required to pay the cost of the course.

If a retired peace officer who satisfies the criteria set forth in the third preceding paragraph attends a firearms requalification program that is approved for purposes of firearms requalification required under R.C. 109.801, the retired peace officer's successful completion of the firearms requalification program requalifies the retired peace officer for one year from the date on which the program was successfully completed, and the requalification is valid during that one-year period. If a retired peace officer who satisfies those criteria satisfactorily completes such a firearms requalification program, the retired peace officer must be issued a firearms requalification certification that identifies the retired peace officer by name, identifies the entity that taught the program, specifies that the retired peace officer successfully completed the program, specifies the date on which the course was successfully completed, and specifies that the requalification is valid for one year from that date of successful completion. The firearms requalification certification for a retired peace officer may be included in the retired peace officer identification card issued to the retired peace officer under the provisions described above. A retired peace officer who attends a firearms requalification program that is approved for purposes of firearms requalification required under R.C. 109.801 may be required to pay the cost of the program.

As used in the provisions described above: (1) "qualified retired peace officer" means a person who satisfies all of the following: (a) the person satisfies the criteria described in the fourth preceding paragraph, (b) the person is not under the influence of alcohol or another intoxicating or hallucinatory drug or substance, and (c) the person is not prohibited by federal law from receiving firearms, and (2) "retired peace officer identification card" means an identification card that is issued pursuant to the provisions described in the third preceding paragraph to a person who is a retired peace officer. (R.C. 2923.126(F).)

Operation of the bill

The bill revises the "retired peace officer" qualification provisions in two ways (R.C. 2923.126(F)(2)):

(1) It removes the requirement that a retired peace officer have a nonforfeitable right to benefits under the retirement plan of the agency issuing the identification card in order to obtain a retired peace officer identification card from the agency from which the officer retired.

(2) It provides that, if a retired peace officer who satisfies the criteria set forth in R.C. 2923.126(F)(2)(a)(i) to (iv) for obtaining a retired peace officer identification card attends a firearm requalification program that is approved for

purposes of firearms requalification required under R.C. 109.801, the retired peace officer's successful completion of the requalification program requalifies the retired peace officer for purposes of obtaining the rights of a concealed carry licensee for five years (as opposed to current law's one year) from the date on which the program was successfully completed.

Bar against seizure, in a declared emergency or disaster, of lawfully carried or owned firearm

The bill specifies that no law enforcement officer, person acting as a law enforcement officer, or other public official may confiscate or attempt to confiscate any lawfully carried or lawfully owned firearm in a declared "emergency" or "disaster" (see below) (R.C. 5502.371).

Under existing law, as used in R.C. 5502.21 to 5502.51 (R.C. 5502.21, not in the bill): (1) "disaster" means any imminent threat or actual occurrence of widespread or severe damage to or loss of property, personal hardship or injury, or loss of life that results from any natural phenomenon or act of a human, and (2) "emergency" means any period during which the congress of the United States or a chief executive has declared or proclaimed that an emergency exists.

COMMENT

Existing R.C. 2744.01, which is not in the bill, provides that, as used in R.C. Chapter 2744.:

(1)(a) "Governmental function" means a function of a political subdivision that is specified in paragraph (1)(b), below, or that satisfies any of the following: (i) a function that is imposed upon the state as an obligation of sovereignty and that is performed by a political subdivision voluntarily or pursuant to legislative requirement, (ii) a function that is for the common good of all citizens of the state, or (iii) a function that promotes or preserves the public peace, health, safety, or welfare; that involves activities that are not engaged in or not customarily engaged in by nongovernmental persons; and that is not specified in paragraph (1)(b), below.

(b) A "governmental function" includes, but is not limited to, the following:

(i) The provision or nonprovision of police, fire, emergency medical, ambulance, and rescue services or protection;

(ii) The power to preserve the peace; to prevent and suppress riots, disturbances, and disorderly assemblages; to prevent, mitigate, and clean up

releases of oil and hazardous and extremely hazardous substances as defined in R.C. 3750.01; and to protect persons and property;

(iii) The provision of a system of public education;

(iv) The provision of a free public library system;

(v) The regulation of the use of, and the maintenance and repair of, roads, highways, streets, avenues, alleys, sidewalks, bridges, aqueducts, viaducts, and public grounds;

(vi) Judicial, quasi-judicial, prosecutorial, legislative, and quasi-legislative functions;

(vii) The construction, reconstruction, repair, renovation, maintenance, and operation of buildings that are used in connection with the performance of a governmental function, including, but not limited to, office buildings and courthouses;

(viii) The design, construction, reconstruction, renovation, repair, maintenance, and operation of jails, places of juvenile detention, workhouses, or any other detention facility, as defined in R.C. 2921.01;

(ix) The enforcement or nonperformance of any law;

(x) The regulation of traffic, and the erection or nonerection of traffic signs, signals, or control devices;

(xi) The collection and disposal of solid wastes, as defined in R.C. 3734.01, including, but not limited to, the operation of solid waste disposal facilities, as "facilities" is defined in that section, and the collection and management of "hazardous waste generated by households" (as defined in the provision);

(xii) The provision or nonprovision, planning or design, construction, or reconstruction of a public improvement, including, but not limited to, a sewer system;

(xiii) The operation of a job and family services department or agency, including, but not limited to, the provision of assistance to aged and infirm persons and to persons who are indigent;

(xiv) The operation of a health board, department, or agency, including, but not limited to, any statutorily required or permissive program for the provision

of immunizations or other inoculations to all or some members of the public, provided that a "governmental function" does not include the supply, manufacture, distribution, or development of any drug or vaccine employed in any such immunization or inoculation program by any supplier, manufacturer, distributor, or developer of the drug or vaccine;

(xv) The operation of mental health facilities, mental retardation or developmental disabilities facilities, alcohol treatment and control centers, and children's homes or agencies;

(xvi) The provision or nonprovision of inspection services of all types, including, but not limited to, inspections in connection with building, zoning, sanitation, fire, plumbing, and electrical codes, and the taking of actions in connection with those types of codes, including, but not limited to, the approval of plans for the construction of buildings or structures and the issuance or revocation of building permits or stop work orders in connection with buildings or structures;

(xvii) Urban renewal projects and the elimination of slum conditions;

(xviii) Flood control measures;

(xix) The design, construction, reconstruction, renovation, operation, care, repair, and maintenance of a township cemetery;

(xx) The issuance of revenue obligations under R.C. 140.06;

(xxi) The design, construction, reconstruction, renovation, repair, maintenance, and operation of any school athletic facility, school auditorium, or gymnasium or any recreational area or facility, including, but not limited to, any of the following: a park, playground, or playfield; an indoor recreational facility; a zoo or zoological park; a bath, swimming pool, pond, water park, wading pool, wave pool, water slide, or other type of aquatic facility; a golf course; a bicycle motocross facility or other type of recreational area or facility in which bicycling, skating, skate boarding, or scooter riding is engaged; a rope course or climbing walls; or an all-purpose vehicle facility in which all-purpose vehicles, as defined in R.C. 4519.01, are contained, maintained, or operated for recreational activities.

(xxii) The provision of public defender services by a county or joint county public defender's office pursuant to R.C. Chapter 120.;

(xxiii)(i) At any time before specified federal regulations become effective, the designation, establishment, design, construction, implementation, operation, repair, or maintenance of a public road rail crossing in a zone within a municipal corporation in which, by ordinance, the legislative authority of the municipal corporation regulates the sounding of locomotive horns, whistles, or bells, (ii) on

and after the effective date of the specified federal regulations, the designation, establishment, design, construction, implementation, operation, repair, or maintenance of a public road rail crossing in such a zone or of a supplementary safety measure at or for a public road rail crossing, if and to the extent that the public road rail crossing is excepted, pursuant to federal law, from the requirement of the regulations prescribed under federal law.

(xxiv) A function that the General Assembly mandates a political subdivision to perform.

(2) "Political subdivision" or "subdivision" means a municipal corporation, township, county, school district, or other body corporate and politic responsible for governmental activities in a geographic area smaller than that of the state. "Political subdivision" includes, but is not limited to, a county hospital commission appointed under R.C. 339.14, board of hospital commissioners appointed for a municipal hospital under R.C. 749.04, board of hospital trustees appointed for a municipal hospital under R.C. 749.22, regional planning commission created pursuant to R.C. 713.21, county planning commission created pursuant to R.C. 713.22, joint planning council created pursuant to R.C. 713.231, interstate regional planning commission created pursuant to R.C. 713.30, port authority created pursuant to R.C. 4582.02 or 4582.26 or in existence on December 16, 1964, regional council established by political subdivisions pursuant to R.C. Chapter 167., emergency planning district and joint emergency planning district designated under R.C. 3750.03, joint emergency medical services district created pursuant to R.C. 307.052, fire and ambulance district created pursuant to R.C. 503.375, joint interstate emergency planning district established by an agreement entered into under that section, county solid waste management district and joint solid waste management district established under R.C. 343.01 or 343.012, community school established under R.C. Chapter 3314., the county or counties served by a community-based correctional facility and program or district community-based correctional facility and program established and operated under R.C. 2301.51 to 2301.58, a community-based correctional facility and program or district community-based correctional facility and program that is so established and operated, and the facility governing board of a community-based correctional facility and program or district community-based correctional facility and program that is so established and operated.

HISTORY

ACTION

DATE

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