



Ohio Legislative Service Commission

Final Analysis

Dennis M. Papp

Am. Sub. H.B. 495 129th General Assembly (As Passed by the General Assembly)

- Reps.** Johnson, Hill, Hall, R. Adams, Brenner, Derickson, Wachtmann, Combs, Hayes, Buchy, Boose, McClain, Goodwin, Thompson, Conditt, Grossman, Maag, Sears, Damschroder, Hackett, Uecker, Young, J. Adams, Bubb, Stautberg, Ruhl, DeVitis, Dovilla, Amstutz, Beck, Blair, C. Hagan, Henne, Hottinger, Huffman, Kozlowski, Landis, Lynch, Martin, Newbold, Pelanda, Roegner, Rosenberger, Scherer, Smith, Sprague, Stebelton, Terhar, Batchelder
- Sens.** Faber, Balderson, Beagle, Burke, Coley, Eklund, Hite, Jordan, Obhof, Patton, Peterson, Schaffer, Seitz, Wagoner

Effective date: March 27, 2013

ACT SUMMARY

- Consolidates references to the different types of concealed carry licenses issued by Ohio or issued by another state and recognized in Ohio under the term "concealed handgun license," simplifies references to such licenses, and eliminates certain obsolete or redundant language in the concealed carry law and in the law governing improper handling of a firearm in a motor vehicle.
- Defines "licensee" as used in the concealed carry law to include the holder of a standard concealed handgun license, the holder of a license issued on a temporary emergency basis, and the holder of a license issued by another state.
- Eliminates the requirement that an applicant for renewal of a concealed carry license present certification of competency.
- Specifies that any person may possess a firearm in a motor vehicle in the State Underground Parking Garage at the State Capitol Building or the parking garage at the Riffe Center for Government and the Arts in Columbus, if the person's possession of the firearm in the vehicle is not in violation of the offense of improperly handling firearms in a motor vehicle or any other Revised Code provision.

- Specifies that any person may store or leave a firearm in a locked motor vehicle that is parked in the State Underground Parking Garage at the State Capitol Building or the parking garage at the Riffe Center for Government and the Arts in Columbus, if the person's transportation and possession of the firearm in the vehicle while traveling to the garage was not in violation of the offense of improperly handling firearms in a motor vehicle or any other Revised Code provision.
- Specifies that nothing in the Revised Code section that sets forth the offense of improperly handling firearms in a motor vehicle prohibits or restricts a person from possessing, storing, or leaving a firearm in a locked motor vehicle that is parked in the State Underground Parking Garage at the State Capitol Building or the parking garage at the Riffe Center for Government and the Arts in Columbus, if the person's transportation and possession of the firearm in the vehicle while traveling to the premises or facility was not in violation of the offense of improperly handling firearms in a motor vehicle.
- Amends the definition of "unloaded" in the prohibition against improperly handling a firearm in a motor vehicle and in the similar vessel-based prohibition, with respect to the presence in the vehicle or vessel of a magazine or speed loader containing ammunition.
- Permits the county sheriff, with the approval of the board of county commissioners, to expend any county portion of the concealed handgun license fees for the costs of ammunition used in a training course.
- Makes amendments to conform to the foregoing changes and makes technical and clarifying changes.

TABLE OF CONTENTS

Concealed Handgun Law	3
Simplification of terminology	3
Obsolete or redundant language	6
Definition of licensee	6
Competency certification on renewal of regular license	6
Improperly handling firearms in a motor vehicle or vessel	7
Prohibitions and definitions of "unloaded"	7
Possession or storage of a firearm in the State Underground Parking Garage or the Riffe Center parking garage	9
Sheriff's Concealed Handgun License Issuance Expense Fund uses	11

CONTENT AND OPERATION

Concealed Handgun Law

Simplification of terminology

Formerly, the preexisting law that governed the issuance of licenses to carry a concealed handgun and the carrying of a concealed handgun under authority of such a license (the Concealed Handgun Law) and other statutes that referred to that law generally used extended language when referring to the licenses. The extended language typically referred to standard licenses issued under that Law, temporary emergency licenses issued under that Law, and licenses issued by states other than Ohio that were recognized as valid in Ohio under that Law. For example, the prohibition against carrying a concealed handgun (other than dangerous ordnance, which was prohibited separately) did not apply to a person who also was 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 attorney general has entered into a reciprocity agreement under section 109.69 of the Revised Code."¹ The act simplifies this extended language by including all three types of licenses within one defined term, putting that definition in one place, and replacing the extended language with references to that defined term. For example, the act reduces the language from the prohibition against carrying a concealed handgun that is quoted above to "concealed handgun license."

The preexisting Concealed Handgun Law also used the term "valid license" in several places and formerly defined that term as any standard license or temporary emergency license to carry a concealed handgun issued under the Concealed Handgun Law that was valid and that had not been suspended or revoked under that Law. The act modifies the definition to reflect the simplification described in the preceding paragraph.

To accomplish the changes summarized in the two preceding paragraphs, the act does the following:

(1) It defines for purposes of R.C. 2923.11 to 2923.24 (the Weapons Control Law, which includes the Concealed Handgun Law) "concealed handgun license" or "license to carry a concealed handgun" to mean, subject to the limitation described in the next sentence, a license or temporary emergency license to carry a concealed handgun issued under R.C. 2923.125 (standard license) or 2923.1213 (license issued on a temporary

¹ R.C. 2923.12(C)(2).

emergency basis) or a license to carry a concealed handgun issued by another state with which the Attorney General has entered into a reciprocity agreement under preexisting R.C. 109.69 (substantively unchanged by the act). The act states that (1) any reference in the Revised Code to a concealed handgun license issued under R.C. 2923.125 or a license to carry a concealed handgun issued under R.C. 2923.125 means only a license of the type that is specified in R.C. 2923.125, (2) any reference in the Revised Code to a concealed handgun license issued under R.C. 2923.1213, a license to carry a concealed handgun issued under R.C. 2923.1213, or a license to carry a concealed handgun on a temporary emergency basis means only a license of the type that is specified in R.C. 2923.1213, and (3) any reference in the Revised Code to a concealed handgun license issued by another state or a license to carry a concealed handgun issued by another state means only a license issued by another state with which the Attorney General has entered into a reciprocity agreement under preexisting R.C. 109.69.²

The act amends several sections located outside of the Weapons Control Law to define "concealed handgun license," as used in those sections, to have the same meaning as in the above definition.³

(2) It defines "valid concealed handgun license" or "valid license to carry a concealed handgun" to mean a "concealed handgun license" that is currently valid, has not been suspended under R.C. 2923.128(A)(1) or 2923.1213 or revoked under R.C. 2923.128(B)(1) or 2923.1213, and is not under suspension or revocation by another state that issued the license. The act repeals the former definition of "valid license," which was similar to the new definition of "valid concealed handgun license" but did specifically not include out-of-state licenses.⁴ The act amends one section located outside of the Weapons Control Law to define "valid concealed handgun license," as used in that section, to have the same meaning as in the above definition.⁵

(3) It amends numerous sections of the Revised Code to use the simplified references to concealed handgun licenses or valid concealed handgun licenses or otherwise conform to the changes in the license language (e.g., to incorporate the new definitions).⁶

² R.C. 2923.11(N).

³ R.C. 109.69(B)(1), 109.731(D), 311.41(E), and 1547.69(A)(1).

⁴ R.C. 2923.11(O) and repeal of 2923.124(H).

⁵ R.C. 1547.69(A)(1).

⁶ R.C. 109.69, 109.731, 311.41, 311.42, 1547.69, 2921.13, 2923.12, 2923.121, 2923.122, 2923.123, 2923.124, 2923.125, 2923.126, 2923.127, 2923.128, 2923.129, 2923.1210, 2923.1211, 2923.1213, 2923.16, and 2953.37.

(4) To conform to its consolidation of the different types of licenses under the term "concealed handgun license," it changes the phrase "temporary emergency license to carry a concealed handgun" to "concealed handgun license on a temporary emergency basis."⁷ Because of the consolidation of the term "concealed handgun license," the act states that the Revised Code section governing application and renewal procedures for standard, nonemergency licenses applies only to the application for and issuance by Ohio of concealed handgun licenses other than concealed handgun licenses on a temporary emergency basis that are issued under R.C. 2923.1213.⁸

(5) It amends several sections to replace a former reference to "license or temporary emergency license to carry a concealed handgun" or similar language with the term "concealed handgun license."⁹ The language being replaced on its face refers only to Ohio concealed handgun licensees, and the new term refers also to out-of-state licensees. However, preexisting R.C. 2923.126(D), substantively unchanged by the act, provides that a person who holds a license to carry a concealed handgun that was issued pursuant to the law of another state that is recognized by the Attorney General pursuant to a reciprocity agreement entered into pursuant to preexisting R.C. 109.69 has the same right to carry a concealed handgun in Ohio as a person who was issued a license to carry a concealed handgun under R.C. 2923.125 and is subject to the same restrictions that apply to a person who carries a license issued under that section. The act modifies R.C. 2923.126(D) to conform to the other language changes the act makes. Therefore, the language change to "concealed handgun license" plus the other changes in the act make specific what otherwise has been implied under the replaced language.

(6) In the preexisting provision that authorizes a journalist to obtain from a sheriff the name, county, and date of birth of each person to whom the sheriff has issued a standard license to carry a concealed handgun, a replacement of such a standard license, a renewal of such a standard license, a temporary emergency license to carry a concealed handgun, or a replacement of such a temporary emergency license, it replaces the references to the two types of licenses, to the replacements of the two types of licenses, and to the renewal of a standard license with a reference to the "issuance of, renewal of, or issuance of a replacement for a concealed handgun license." Under the act's definition of concealed handgun license, this reference includes standard licenses and temporary emergency licenses.¹⁰

⁷ R.C. 109.731, 311.41, 311.42, 2921.13, 2923.124, 2923.125(D), 2923.127, 2923.129, and, 2923.1213.

⁸ R.C. 2923.125(A).

⁹ R.C. 2923.121(D), 2923.126(A) and (B), 2923.128(A) and (B), and 2923.1211.

¹⁰ R.C. 2923.129(B)(2).

Obsolete or redundant language

The act eliminates former references to the renewal of licenses issued before March 14, 2007, which references have become obsolete due to the passage of time.¹¹ Under former law, a licensee who was the driver or occupant of a motor vehicle, who had a loaded handgun, and whose vehicle was stopped by a law enforcement officer could not "knowingly, have contact with the loaded handgun by touching it with the licensee's hands or fingers unless the person removes, attempts to remove, grasps, holds, or has contact with the loaded handgun pursuant to and in accordance with" the officer's directions. The act eliminates the redundant words "removes, attempts to remove, grasps, or holds the loaded handgun." Therefore, under the act, a licensee who is the driver or occupant of a motor vehicle, who has a loaded handgun, and whose motor vehicle is stopped by a law enforcement officer may not knowingly have contact with the loaded handgun by touching it with the licensee's hands or fingers unless the person has contact with the loaded handgun pursuant to and in accordance with the officer's directions. The act eliminates a comparable phrase in another section with a similar restriction.¹²

Definition of licensee

The act modifies the definition of "licensee" that applies to the Concealed Handgun Law to mean a person to whom a standard concealed handgun license has been issued under R.C. 2923.125 and, except when the context clearly indicates otherwise, includes a person to whom a concealed handgun license on a temporary emergency basis has been issued under R.C. 2923.1213 and *a person to whom a concealed handgun license has been issued by another state*. Former law did not include a reference to a person who had a license issued by another state.¹³

Competency certification on renewal of regular license

Formerly, a person who had been issued a standard concealed handgun license and who wished to renew the license was required to file with the appropriate sheriff a completed renewal application, a certification that the person had reread a specified firearms safety pamphlet, a license renewal fee unless waived, and a competency certification of a specified nature. A licensee who was renewing the license for the first time was required to present to the sheriff proof that the licensee at one time had a certification of competency in the use of a firearm of the type required for an initial

¹¹ R.C. 2923.125(D)(2)(a) and (F)(2) and 2923.126(A).

¹² R.C. 2923.126(A) and 2923.16(E)(4).

¹³ R.C. 2923.124(D).

license. A valid license, expired license, or any other previously issued license that had not been revoked was prima-facie evidence that the licensee at one time had a competency certification. A licensee who previously had renewed the license was required to satisfy the competency requirement by obtaining a renewed competency certification from any one of a list of specified entities that offered a course, class, or program on firearms safety, training, or requalification by passing a test demonstrating that the person was range competent. The act eliminates these renewed competency requirements.¹⁴

In the preexisting provision that granted immunity from civil liability to entities or instructors that provide renewed competency certification on the basis of range competency, the act, consistent with the elimination of such certification, applies the immunity to entities or instructors who provided the certification before the act's effective date.¹⁵

Improperly handling firearms in a motor vehicle or vessel

Prohibitions and definitions of "unloaded"

Preexisting law, unchanged by the act except for the modification of the definition of "unloaded" described below, contains several prohibitions that relate to possession of a firearm in a vehicle or vessel. One of the prohibitions, in the offense of improperly handling firearms in a motor vehicle, prohibits a person from knowingly transporting or having a firearm in a motor vehicle, unless the person may lawfully possess the firearm under Ohio or federal law, the firearm is unloaded, and the firearm is carried in one of several specified ways.¹⁶ A separate prohibition similarly prohibits a person from knowingly transporting or having a firearm in a vessel unless the firearm is unloaded and is carried in one of several specified ways.¹⁷ Neither of these prohibitions applies to a person who, at the time in question, is carrying a valid concealed handgun license and is not knowingly in a place specified under R.C. 2923.126(B) as a place in which a concealed handgun licensee is not entitled to carry a concealed handgun.¹⁸ Formerly, to be "unloaded" for purposes of either prohibition, a firearm that did not use an obsolete ignition system could have no ammunition in it. Furthermore, ammunition could not be loaded into a magazine or speed loader *that*

¹⁴ R.C. 2923.125(F)(1), (F)(2), and (G)(4).

¹⁵ R.C. 2923.129(A)(4).

¹⁶ R.C. 2923.16(C).

¹⁷ R.C. 1547.69(D).

¹⁸ R.C. 1547.69(H)(2) and 2923.16(F)(5).

could be used with the firearm and that was located anywhere within the vehicle or vessel, without regard to where *ammunition* otherwise was located within the vehicle or vessel. Ammunition held in stripper-clips or in en-bloc clips was not considered ammunition that was loaded into a magazine or speed loader. To be "unloaded" under former law, a firearm that used an obsolete ignition system (including a percussion cap or flintlock) had to be uncapped or have the priming charge removed from the pan.

The act retains the former definition of "unloaded" that applied with respect to a firearm that uses an obsolete ignition system,¹⁹ but it modifies the former definition of "unloaded" that applied with respect to a firearm that did not use such a system.²⁰ Under the act, "unloaded" means, with respect to a firearm other than a firearm that uses an obsolete ignition system, that no ammunition is in the firearm in question, no magazine or speed loader containing ammunition is inserted into the firearm in question, and one of the following applies: (1) there is no ammunition in a magazine or speed loader that is in the vehicle or vessel in question and that may be used with the firearm in question, or (2) any magazine or speed loader that contains ammunition and that may be used with the firearm in question is stored in a compartment within the vehicle or vessel in question that cannot be accessed without leaving the vehicle or vessel or is stored in a *container that provides complete and separate enclosure*.²¹

Under the act, for the purposes of the provision described in clause (2) of the second sentence in the preceding paragraph, a "container that provides complete and separate enclosure" includes, but is not limited to, any of the following: (1) a package, box, or case with multiple compartments, as long as the loaded magazine or speed loader and the firearm in question either are in separate compartments within the package, box, or case, or, if they are in the same compartment, the magazine or speed loader is contained within a separate enclosure in that compartment that does not contain the firearm and that closes using a snap, button, buckle, zipper, hook and loop closing mechanism, or other fastener that must be opened to access the contents or the firearm is contained within a separate enclosure of that nature in that compartment that does not contain the magazine or speed loader, or (2) a pocket or other enclosure on the person of the person in question that closes using a snap, button, buckle, zipper, hook and loop closing mechanism, or other fastener that must be opened to access the contents.²² For the purposes of the provisions described in the second sentence of the preceding paragraph, as under former law, ammunition held in stripper clips or in

¹⁹ R.C. 1547.69(A)(2) and 2923.16(K)(6).

²⁰ R.C. 1547.69(A)(2) and 2923.126(K)(5).

²¹ R.C. 1547.69(A)(2) and 2923.126(K)(5)(a).

²² R.C. 1547.69(A)(2) and 2923.126(K)(5)(b).

en-bloc clips is not considered ammunition that is loaded into a magazine or speed loader.²³

The act specifies that the provisions described in the second sentence of the second preceding paragraph do not affect the authority of a person who is carrying a valid concealed handgun license to have one or more magazines or speed loaders containing ammunition anywhere in a vehicle or vessel, without being transported as described in those provisions, as long as no ammunition is in a firearm, other than a handgun, in the vehicle or vessel other than as permitted under any other provision of R.C. Chapter 2923. or R.C. 1547.69. A person who is carrying a valid concealed handgun license may have one or more magazines or speed loaders containing ammunition anywhere in a vehicle or vessel without further restriction, as long as no ammunition is in a firearm, other than a handgun, in the vehicle or vessel other than as permitted under any provision of R.C. Chapter 2923. or R.C. 1547.69.²⁴

Possession or storage of a firearm in the State Underground Parking Garage or the Riffe Center parking garage

The act adds provisions to the law governing the Capital Square Review and Advisory Board and the law governing the Ohio Building Authority, with respect to the possession or storage of firearms in a motor vehicle in the State Underground Parking Garage at the State Capitol Building or the parking garage at the Riffe Center for Government and the Arts in Columbus. It specifies that: (1) any person may possess a firearm in a motor vehicle in either of those parking garages if the person's possession of the firearm in the vehicle is not in violation of the offense of improperly handling firearms in a motor vehicle (see below) or any other Revised Code provision, and (2) any person may store or leave a firearm in a locked motor vehicle that is parked in either of those parking garages, if the person's transportation and possession of the firearm in the vehicle while traveling to the garage was not in violation of the offense of improperly handling firearms in a motor vehicle or any other Revised Code provision.²⁵

Related to the provisions described in the preceding paragraph, the act adds language to the Revised Code section that sets forth the offense of improperly handling firearms in a motor vehicle to specify that nothing in that section prohibits or restricts a person from possessing, storing, or leaving a firearm in a locked motor vehicle that is parked in the State Underground Parking Garage at the State Capitol Building or the parking garage at the Riffe Center for Government and the Arts in Columbus, if the

²³ R.C. 1547.69(A)(2) and 2923.126(K)(5)(c).

²⁴ R.C. 1547.69(J) and 2923.126(L).

²⁵ R.C. 105.41(N) and 152.08(C).

person's transportation and possession of the firearm in the vehicle while traveling to the premises or facility was not in violation of the offense of improperly handling firearms in a motor vehicle.²⁶

Under preexisting law, unchanged by the act except as described above in "**Prohibitions and definition of "unloaded"**," the offense of improperly handling firearms in a motor vehicle prohibits several different types of conduct. The statute containing the offense provides exemptions from some of the offense and affirmative defenses to charges brought for violations of some of prohibitions in the offense. The prohibitions prohibit a person from doing any of the following:²⁷

(1) Knowingly discharging a firearm while in or on a motor vehicle;

(2) Knowingly transporting or having a loaded firearm in a motor vehicle in such a manner that the firearm is accessible to the operator or any passenger without leaving the vehicle;

(3) Knowingly transporting or having a firearm in a motor vehicle in any manner prohibited under the prohibition described above in "**Prohibitions and definition of "unloaded"**";

(4) Knowingly transporting or having a loaded handgun in a motor vehicle if, at the time of that transportation or possession, the person is under the influence of alcohol, a drug of abuse, or a combination of them or the person's whole blood, blood serum or plasma, breath, or urine contains a concentration of alcohol, a listed controlled substance, or a listed metabolite of a controlled substance 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 is the operator of or a passenger in the vehicle;

(5) If the person has been issued a concealed handgun license, is the driver or an occupant of a motor vehicle that is 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, and is transporting or has a loaded handgun in the vehicle in any manner: (a) failing to promptly inform any law enforcement officer who approaches the vehicle that the person has been issued a concealed handgun license and that the person then possesses or has a loaded handgun in the vehicle, (b) failing to promptly inform the employee of

²⁶ R.C. 2923.16(F)(7).

²⁷ R.C. 2923.16.

the unit who approaches the vehicle that the person has been issued a concealed handgun license and that the person then possesses or has a loaded handgun in the commercial motor vehicle, (c) knowingly failing to remain in the 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 and before the officer leaves, unless the failure is pursuant to directions given by an officer, (d) knowingly having contact with the loaded handgun by touching it with the person's hands or fingers in the vehicle at any time after the law enforcement officer begins approaching and before the officer leaves, unless the person has contact with the loaded handgun pursuant to directions given by the officer, or (e) knowingly disregarding or failing to comply with any lawful order of any law enforcement officer given while the vehicle is stopped, including, but not limited to, a specific order to the person to keep the person's hands in plain sight.

Sheriff's Concealed Handgun License Issuance Expense Fund uses

Preexisting law, unchanged by the act, establishes the Sheriff's Concealed Handgun License Issuance Expense Fund and requires that all fees paid to a sheriff for the issuance or renewal of a standard concealed handgun license or for the issuance of a temporary emergency concealed handgun license be deposited into the Fund. Some of the moneys deposited into the Fund are distributed to the Attorney General (see below), and the remaining moneys are the county portion of the fees. The act permits the sheriff, with the approval of the board of county commissioners, to expend any county portion of the fees deposited into the Fund for costs of ammunition used in a course, class, or program administered by the sheriff for a concealed handgun license. Additionally, under preexisting law retained by the act, the sheriff, with the board's approval, may expend any county portion of those fees for any costs incurred by the sheriff in connection with performing any administrative functions related to the issuance of concealed handgun licenses or temporary emergency licenses.²⁸

Under preexisting law, unchanged by the act, when a sheriff deposits fees into the Fund, the county must distribute all fees deposited into the Fund except \$40 of each fee paid by an applicant for an initial standard concealed handgun license, \$15 of each fee paid for a temporary emergency concealed handgun license, and \$35 of each fee paid for a renewal of a standard concealed handgun license to the Attorney General to be used to pay the cost of background checks performed by the Bureau of Criminal

²⁸ R.C. 311.42.

Identification and Investigation and the FBI and to cover administrative costs associated with issuing the license.²⁹

HISTORY

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²⁹ R.C. 311.42(A).

