



Ohio Legislative Service Commission

Bill Analysis

Bill Rowland

H.B. 45

129th General Assembly
(As Introduced)

Reps. Bupp and Johnson, J. Adams, R. Adams, Amstutz, Balderson, Beck, Blair, Blessing, Boose, Brenner, Burke, Damschroder, Derickson, Dovilla, Hackett, Hayes, Huffman, Kozlowski, Maag, Martin, Rosenberger, Ruhl, Sears, Slaby, Snitchler, Stautberg, Thompson, Uecker, Young

BILL SUMMARY

Concealed carry in a liquor permit premises

- Expands the locations that serve liquor at which a concealed carry licensee may legally enter while in possession of a concealed handgun to include any premises that has been issued a D liquor permit, which includes carry outs, restaurants, nightclubs, clubs, hotels, shopping malls, marinas, museums, and other establishments.
- Prohibits a concealed carry licensee from consuming liquor or being under the influence of alcohol or a drug of abuse while in possession of a concealed handgun and in a premises that has been issued a D liquor permit.

Improperly handling firearms in a motor vehicle by a concealed carry licensee

- Through repeal of a prohibition, allows a concealed carry licensee to transport or have a loaded handgun in a motor vehicle regardless of whether it is secured in a holster, case, bag, or box or by other specified means.
- Similarly, allows a concealed carry licensee to remove or attempt to remove a loaded handgun from the holster, case, bag, box, etc., grasp it, and hold or have contact with it by touching it while the vehicle is being operated on a street, highway, or public property.
- Also repeals a prohibition against knowingly removing a loaded handgun from where it is secured, or knowingly grasping or holding the loaded handgun, if the

concealed carry licensee is the driver or occupant of a motor vehicle that is stopped by a law enforcement officer, but retains a prohibition against knowingly having contact with the loaded handgun by touching it when stopped for a traffic stop or other law enforcement purpose.

Knowingly transporting a firearm in a motor vehicle by a concealed carry licensee

- Modifies an exception to prohibitions governing the transporting of a firearm in a motor vehicle by eliminating a portion of the exception generally requiring that a concealed carry licensee's handgun be secured in a holster, case, bag, or box or by other specified means.

CONTENT AND OPERATION

Concealed carry in a liquor permit premises

The bill generally expands the locations that serve liquor at which a concealed carry licensee may legally enter while in possession of a concealed handgun. The bill accomplishes this by altering the offense of illegal possession of a firearm in a liquor permit premises. Under current law, that offense prohibits a person from possessing a firearm in any room in a premises that has been issued a D liquor permit where any person is consuming liquor or in an open air arena with a similar permit, with certain exemptions. The bill allows any concealed carry licensee to possess a concealed handgun in such a premises as long as the licensee is not consuming liquor or under the influence of alcohol or a drug of abuse. A D liquor permit generally applies to retail store carry outs, restaurants and nightclubs, clubs (such as private clubs), hotels and motels, enclosed shopping malls, marinas, museums, community entertainment districts, and other establishments.¹

Under current law, a concealed carry licensee instead is only exempt from the offense if the licensee possesses a concealed handgun in a retail store with a D-6 and D-8 permit, or just a D-8 permit, issued for the store, and the person is not consuming liquor or under the influence of alcohol or a drug of abuse. A D-6 liquor permit authorizes the sale of intoxicating liquor on Sunday between the hours of 10 a.m. or 1 p.m. and midnight. A D-8 liquor permit authorizes the sale of tasting samples of beer, wine, and mixed beverages, but not spirituous liquor, at retail, for consumption on the premises.²

¹ R.C. 2923.121(A) and (B)(1)(e); R.C. Chapter 4303. (not in the bill).

² R.C. 2923.121(B)(1)(e); R.C. Chapter 4303. (not in the bill).

Under current law, unchanged by the bill, illegal possession of a firearm in a liquor permit premises is a felony of the fifth degree. However, if the offender commits the violation by knowingly carrying or having the firearm concealed on the offender's person or concealed ready at hand, it is a felony of the third degree.³

For purposes of this analysis, "concealed carry licensee" includes a person issued a concealed carry license, a temporary emergency concealed carry license, or a comparable license issued by another state with which the Attorney General has entered into a reciprocity agreement.

Improperly handling firearms in a motor vehicle by a concealed carry licensee

The bill repeals a series of prohibitions that relate to the offense of improperly handling firearms in a motor vehicle that are applicable to a concealed carry licensee.

Securing a loaded handgun in a vehicle

The bill allows a concealed carry licensee to keep a loaded handgun in a motor vehicle without having it secured. It does so by repealing a provision that prohibits a concealed carry licensee from knowingly transporting or having a loaded handgun in a motor vehicle unless one of the following applies:

- (1) The loaded handgun is in a holster on the person's person;
- (2) The loaded handgun is in a closed case, bag, box, or other container that is in plain sight and that has a lid, a cover, or a closing mechanism with a zipper, snap, or buckle that has to be opened for a person to gain access to the handgun; or
- (3) The loaded handgun is securely encased by being stored in a closed glove compartment or vehicle console or in a case that is locked.⁴

Under current law, a violation of this prohibition is a felony of the fifth degree.⁵

Removing, grasping, or touching a loaded handgun while operating a vehicle

In concert with the above change, the bill also repeals a provision that prohibits a concealed carry licensee who is transporting or has a loaded handgun in a motor vehicle from knowingly:

³ R.C. 2923.121(E).

⁴ R.C. 2923.16(E)(1).

⁵ R.C. 2923.16(I).

(1) Removing or attempting to remove the loaded handgun from the holster, case, bag, box, container, or glove compartment while the motor vehicle is being operated on a street, highway, or public property;

(2) Grasping or holding the loaded handgun while the motor vehicle is being so operated; or

(3) Having contact with the loaded handgun by touching it with the person's hands or fingers while the motor vehicle is being so operated.⁶

The prohibition does not apply if the person removes, attempts to remove, grasps, holds, or has contact with the loaded handgun pursuant to and in accordance with directions given by a law enforcement officer.⁷

Under current law, a violation of this prohibition is a felony of the fifth degree.⁸

Removing, grasping, or touching a loaded handgun after being stopped

The bill similarly repeals a provision that prohibits a concealed carry licensee from knowingly removing a loaded handgun from the holster, case, bag, box, container, or glove compartment and knowingly grasping or holding the loaded handgun if:

(1) The concealed carry licensee is the driver or occupant of a motor vehicle that is stopped as a result of a traffic stop or a stop for another law enforcement purpose;

(2) The licensee is transporting the loaded handgun in accordance with current requirements for securing the handgun (see above); and

(3) The licensee is approached by any law enforcement officer while stopped.

However, the bill retains a prohibition under which a concealed carry licensee must not knowingly have 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 law enforcement officer leaves. The prohibition does not apply if the person removes, attempts to remove, grasps, holds, or has contact with the loaded handgun pursuant to and in accordance with directions

⁶ R.C. 2923.16(E)(2).

⁷ R.C. 2923.16(E)(2).

⁸ R.C. 2923.16(I).

given by the law enforcement officer.⁹ The bill does not change the penalty for a violation of this prohibition, which is a felony of the fifth degree.¹⁰

Technical changes

The bill makes technical changes to prohibitions regarding promptly informing a law enforcement officer or an employee of the Motor Carrier Enforcement Unit of the Highway Patrol of a concealed handgun; remaining in a vehicle or failing to keep hands in plain sight after being stopped; and complying with an order of a law enforcement officer after being stopped.¹¹

Knowingly transporting a firearm in a motor vehicle by a concealed carry licensee

Modification of an exception

Current law prohibits anyone from:

(1) 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; or

(2) Knowingly transporting or having a firearm in a motor vehicle unless the person may lawfully possess that firearm under an applicable Ohio or federal law, the firearm is unloaded, and the firearm 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) If the firearm is at least 24 inches in overall length as measured from the muzzle to the part of the stock furthest from the muzzle and if the barrel is at least 18 inches in length, either in plain sight with the action open or the weapon stripped, or, if the firearm is of a type on which the action will not stay open or which cannot easily be stripped, in plain sight.¹²

⁹ R.C. 2923.16(E)(4).

¹⁰ R.C. 2923.16(I).

¹¹ R.C. 2923.16(E)(1) to (3) and (5).

¹² R.C. 2923.16(B) and (C).

Current law establishes an exception to both of the above prohibitions that is related to concealed carry licensees. The bill expands the exception so that if a person is a concealed carry licensee and does not knowingly have a handgun in a place where it is otherwise prohibited, the person is exempt from the prohibitions.

Currently, the exception provides that the prohibitions do not apply to a person who transports or possesses a handgun in a motor vehicle when, at the time of the transportation or possession, all of the following apply:

(1) The person is a concealed carry licensee;

(2) The licensee transporting or possessing the handgun is not knowingly in a place where the licensee otherwise is prohibited from entering with a concealed handgun;¹³ and

(3) The handgun is (a) in a holster on the person's person, (b) 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 that has to be opened for a person to gain access to the handgun, or (c) is securely encased by being stored in a closed glove compartment or vehicle console or in a case that is locked.¹⁴

The bill eliminates item (3), thus eliminating the portion of the exemption related to securing the handgun. It also conforms the penalty for violation of the prohibitions by a concealed carry licensee to reflect the removal of item (3) from the exception. Violation is a fourth degree felony.¹⁵

HISTORY

ACTION	DATE
Introduced	01-26-11

H0045-I-129/jc

¹³ R.C. 2923.126(B) (not in the bill).

¹⁴ R.C. 2923.16(F)(5).

¹⁵ R.C. 2923.16(I).

