



Ohio Legislative Service Commission

Bill Analysis

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H.B. 495

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(As Introduced)

Reps. Johnson, Hill, Hall, R. Adams, Brenner, Derickson, Wachtmann, Combs, Hayes, Buchy, Boose, McClain, Goodwin, Thompson, Conditt, Grossman, Maag, Sears, Damschroder, Hackett, Fende, Uecker, Young, J. Adams, Bulp, Stautberg, Ruhl, DeVitis, Dovilla

BILL SUMMARY

- Consolidates references to the different types of concealed carry licenses 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.
- Eliminates the requirement that the Attorney General negotiate reciprocity agreements with other states regarding the recognition of concealed carry licenses if certain conditions are met, eliminates the prohibition against reciprocity agreements unless those conditions are met, and authorizes the Attorney General to negotiate reciprocity agreements with states that recognize Ohio licenses.
- Authorizes the Attorney General to determine if another state automatically recognizes Ohio concealed carry licenses, requires the Attorney General to publish all such determinations, and provides that such a determination has the same effect as if Ohio had entered into a reciprocity agreement with the other state and that a license issued by the other state is valid in Ohio.
- Defines "licensee" as used in the concealed carry law to include the holder of a regular 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.

- Amends the definition of "unloaded" in the prohibition against improperly handling a firearm in a motor vehicle.
- Makes amendments to conform to the foregoing changes.

CONTENT AND OPERATION

Simplification of terminology

Concealed carry licenses

The concealed carry law and statutes that refer to it use extended language when referring to handgun licenses. For example, the prohibition against carrying a concealed handgun (other than dangerous ordnance, which is prohibited separately) does not apply to a person who is also 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 bill simplifies this language by putting the pertinent definitions in one place and condensing the reference to one word or a few words. For example, the bill reduces the language quoted above to "concealed handgun license."

The bill creates the following definitions for use in R.C. 2923.11 to 2923.24 (weapons control and concealed handgun licensing sections):

"Concealed handgun license" or "license to carry a concealed handgun" means, subject to the next sentence, a license or temporary emergency license to carry a concealed handgun issued under R.C. 2923.125 (regular license) or 2923.1213 (license issued on a temporary 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 or automatic recognition finding under R.C. 109.69 in the bill (see "**Reciprocity**," below). The bill states (1) that any reference in the Revised Code to a "concealed handgun license issued under section 2923.125 of the Revised Code" or a "license to carry a concealed handgun issued under section 2923.125 of the Revised Code" means only a license of the type that is specified in that section, (2) that any reference in the Revised Code to a "concealed handgun license issued under section 2923.1213 of the Revised Code," a "license to carry a concealed handgun issued under section 2923.1213 of the Revised Code," or a "license to carry a concealed handgun on a temporary emergency basis" means only a license of the type that is specified in that

¹ R.C. 2923.12(C)(2).

section, and (3) that 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 or automatic recognition finding as provided for in the bill.² (See **COMMENT 1**.)

The bill amends several sections to define "concealed handgun license," as used in those sections, to have the same meaning as in the above definition.³

"Valid concealed handgun license" or "valid license to carry a concealed handgun" means a "concealed handgun license" that is currently valid, has not been suspended (R.C. 2923.128(A)(1) or 2923.123 (see **COMMENT 2**)) or revoked (R.C. 2923.128(B)(1) or 2923.1213) under specified provisions of Ohio law, and is not under suspension or revocation by another state that issued the license. The bill repeals the existing definition of "valid license," which is similar to the new definition of "valid concealed handgun license" but does specifically not include out-of-state licenses.⁴

To conform to the consolidation of the different types of licenses under the term "concealed handgun license," the bill changes the phrase "temporary emergency license to carry a concealed handgun" to "concealed handgun license on a temporary emergency basis" (see **COMMENT 3**). Because of the consolidation of the term "concealed handgun license," the bill states that the Revised Code section governing application and renewal procedures for regular, nonemergency licenses applies only to the application for and issuance by this state of concealed handgun licenses other than concealed handgun licenses on a temporary emergency basis that are issued under R.C. 2923.1213.⁵

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

The bill amends several sections to replace a reference to "license or temporary emergency license to carry a concealed handgun" or similar language with the term

² R.C. 2923.11(N).

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

⁴ R.C. 2923.11(O) and 2923.124(H) (current law).

⁵ R.C. 2923.125(A).

⁶ R.C. 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.

"concealed handgun license."⁷ The language being replaced on its face refers only to Ohio concealed carry licensees, and the new term refers also to out-of-state licensees. However, existing R.C. 2923.126(D) 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 R.C. 109.69 has the same right to carry a concealed handgun in this state 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 bill modifies R.C. 2923.126(D) to comply with the other language changes the bill makes. Therefore, the language change plus the other changes in the bill make specific what has otherwise been implied under the replaced language.

Obsolete or redundant language

The bill eliminates references to the renewal of licenses issued before March 14, 2007, which have become obsolete due to the passage of time.⁸ Under existing law, a licensee who is the driver or occupant of a motor vehicle, who has a loaded handgun, and whose vehicle is stopped by a law enforcement officer may not "knowingly remove, attempt to remove, grasp, or hold the loaded handgun or knowingly have contact with the loaded handgun by touching it with the licensee's hands or fingers." The bill eliminates the redundant words "remove, attempt to remove, grasp, or hold the loaded handgun or knowingly." Therefore, under the bill, 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. The bill eliminates a comparable phrase in another section with a similar prohibition.⁹

Reciprocity

The bill modifies the law governing Ohio recognition of concealed handgun licenses issued by other states. Current law requires the Attorney General to negotiate and enter into reciprocity agreements with any other state that issues concealed handgun licenses if the eligibility requirements for such licenses in that state are substantially similar to Ohio's eligibility requirements for regular licenses and if that state recognizes regular Ohio licenses. A reciprocity agreement entered into by the Attorney General also may provide for the recognition in this state of a license to carry a

⁷ R.C. 2923.12(B)(1), 2923.121(D), 2923.126(A) and (B), 2923.128(A) and (B), and 2923.1211.

⁸ R.C. 2923.125(D)(2)(a) and (F)(2) and 2923.126(A).

⁹ R.C. 2923.126(A) and 2923.16(E)(4).

concealed handgun issued on a temporary or emergency basis by the other license-issuing state, if the eligibility requirements imposed by that license-issuing state for the temporary or emergency license are substantially comparable to the eligibility requirements for a license or temporary emergency license to carry a concealed handgun issued under R.C. 2923.125 or 2923.1213 and if that license-issuing state recognizes a temporary emergency license to carry a concealed handgun issued under R.C. 2923.1213. Existing law also prohibits the Attorney General from negotiating reciprocity agreements unless those conditions are met.

The bill eliminates the Attorney General's duty to negotiate reciprocity agreements and the above-described prohibition. Instead, the bill gives the Attorney General the option of negotiating and entering into a reciprocity agreement if the other state recognizes Ohio licenses. The bill does not substantively alter the law governing the inclusion in reciprocity agreements of recognition of other states' temporary or emergency licenses. That provision continues to require substantial similarity of eligibility requirements and mutual recognition.¹⁰

The bill authorizes the Attorney General to determine if another state automatically, without written agreement, recognizes a regular concealed handgun license issued in Ohio. If the Attorney General determines that another state does recognize such a license, both of the following apply:

(1) The Attorney General must publish the determination in the same manner as written reciprocity agreements are published. The Attorney General is not specifically required to publish reciprocity agreements, but the agreements are posted on the Attorney General's web site.¹¹

(2) The determination has the same force and effect as a written reciprocity agreement.

(3) A license issued by the other state is just as valid in Ohio as if a reciprocity agreement had been entered into.¹² (See **COMMENT 4.**)

Conforming to the recognition of some non-Ohio licenses even in the absence of a reciprocity agreement, the bill eliminates the reference to reciprocity agreements in the statute that regulates the places where a licensee may carry a concealed handgun. The bill instead states that a person who holds a license issued by another state that is

¹⁰ R.C. 109.69(A) and (B).

¹¹ <http://www.ohioattorneygeneral.gov/Enforcement/Concealed-Carry/Reciprocity-Agreements>.

¹² R.C. 109.69(B).

recognized by the Attorney General under the section dealing with recognition of licenses issued by other states has the same right to carry a concealed handgun as a person who holds an Ohio license and is subject to the same restrictions that apply to a person with an Ohio license.¹³

Concealed carry law

Definition of licensee

The bill modifies the definition of "licensee" that applies to the Revised Code sections that regulate concealed carry licenses to mean a person to whom a 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*.¹⁴

Competency certification on renewal of regular license

Under current law, a person who wishes to renew a regular concealed carry license for the first time must 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 license. A valid license, expired license, or any other previously issued license that has not been revoked is prima-facie evidence that the licensee at one time had a competency certification. A licensee who previously has renewed a license may satisfy the competency requirement by obtaining a renewed competency certification from any one of a list of specified entities that offers a course, class, or program on firearms safety, training, or requalification by passing a test demonstrating that the person is range competent.¹⁵ The bill eliminates these requirements.

In the provision that grants immunity from civil liability to entities or instructors that provide renewed competency certification on the basis of range competency, the bill, consistently with the elimination of such certification, applies the immunity to entities or instructors who provided the certification before the bill's effective date.¹⁶

¹³ R.C. 2923.126(D).

¹⁴ R.C. 2923.124(D).

¹⁵ R.C. 2923.125(F)(1)(a) and (b) and (2) and (G)(4).

¹⁶ R.C. 2923.129(A)(4).

Improperly handling firearms in a motor vehicle

The statute that creates the offense of improperly handling firearms in a motor vehicle prohibits, among other things, 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.¹⁷ To be "unloaded" under current law, a firearm that does not use an obsolete ignition system must have no ammunition in it. Furthermore, ammunition must not be loaded into a magazine or speed loader *that may be used with* the firearm and that is located anywhere within the vehicle, without regard to where *ammunition* otherwise is located within the vehicle. Ammunition held in stripper-clips or in en-bloc clips is not considered ammunition that is loaded into a magazine or speed loader. The bill modifies the definition of "unloaded" to say that ammunition must not be loaded into a magazine or speed loader that *is inserted into* the firearm and that is located anywhere within the vehicle, without regard to where *the loaded magazine or speed loader* otherwise is located within the vehicle.¹⁸

COMMENT

1. The phrases placed in quotation marks in R.C. 2923.11(N)(2), which are meant to refer to other Revised Code sections, do not appear in exactly the quoted form elsewhere in the Revised Code. Removing the quotation marks would maintain the references without risking a construction of division (N)(2) that would defeat its purpose.

2. R.C. 2923.11(O), added by the bill, refers to suspensions of licenses under R.C. 2923.123. The reference should be to R.C. 2923.1213.

3. R.C. 2923.1213(B)(1) incorrectly refers to "concealed handgun license on a temporary basis." This reference needs to be changed to "concealed handgun license on a temporary emergency basis."

4. R.C. 109.69(B), as it appears in the bill, is obviously intended to afford recognition to licenses issued by another state if that state recognizes Ohio licenses. However, the bill does not actually include general language requiring such recognition. Instead, in R.C. 109.69(B)(3), it refers to "The concealed handgun license issued by the other state," with no antecedent for "The . . . license." The problem can be fixed by changing "The" to "A."

¹⁷ R.C. 2923.16(C).

¹⁸ R.C. 2923.16(K)(5)(a).

HISTORY

ACTION

DATE

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