



Ohio Legislative Service Commission

Bill Analysis

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Am. H.B. 495

129th General Assembly
(As Passed by the House)

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

BILL 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.
- 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 any such determination that is made, 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 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.

- 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 ammunition that is loaded into a magazine or speed loader.
- 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.

CONTENT AND OPERATION

Concealed Carry Law

Simplification of terminology

The law that governs 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 refer to that law generally use extended language when referring to the licenses. The extended language typically refers to standard licenses issued under that Law, temporary emergency licenses issued under that Law, and licenses issued by states other than Ohio that are recognized as valid in Ohio under that Law. For example, the prohibition against carrying a concealed handgun (other than dangerous ordnance, which is prohibited separately) does not apply to a person who also 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 attorney general has entered into a reciprocity agreement under section 109.69 of the Revised Code."¹ The bill 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 bill reduces the language from the prohibition against carrying a concealed handgun that is quoted above to "concealed handgun license."

The Concealed Handgun Law also uses the term "valid license" in several places and currently defines that term as any standard license or temporary emergency license to carry a concealed handgun issued under the Concealed Carry Law that is valid and that has not been suspended or revoked under that Law. The bill modifies the definition to reflect the simplification described in the preceding paragraph.

¹ R.C. 2923.12(C)(2).

To accomplish the changes summarized in the two preceding paragraphs, the bill 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 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 as amended by the bill (see "**Reciprocity**," below). The bill states that (1) 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 R.C. 2923.125, (2) 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 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 or automatic recognition finding as provided for in the bill.² (See **COMMENT 1**.)

The bill 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 "2923.123" (see **COMMENT 2**) 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 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 The bill

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 repeal of 2923.124(H).

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

(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 (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 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 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, 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 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 bill modifies R.C. 2923.126(D) to conform to the other language changes the bill makes. Therefore, the language change plus the other changes in the bill make specific what otherwise has been implied under the replaced language.

⁵ R.C. 1547.69(A)(1).

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.

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.

(6) In the existing 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 a concealed handgun license." Under the bill's definition of concealed handgun license, this reference includes standard licenses and temporary emergency licenses. The bill's language does not refer to replacements or renewals of a concealed handgun license, and the effect of the removal of this language is unclear.¹⁰

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.¹¹ 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, 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 bill eliminates the redundant words "removes, attempts to remove, grasps, or holds the loaded handgun." 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 unless the person has contact with the loaded handgun pursuant to and in accordance with the officer's directions. The bill eliminates a comparable phrase in another section with a similar restriction.¹²

Reciprocity

The bill modifies the law governing Ohio's recognition of concealed handgun licenses issued by other states. Current law requires the Attorney General to negotiate and enter into a reciprocity agreement 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 standard concealed handgun licenses and if that state recognizes Ohio standard concealed handgun licenses. A

¹⁰ R.C. 2923.129(C).

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).

reciprocity agreement entered into by the Attorney General also may provide for the recognition in Ohio of a concealed handgun license issued on a temporary or emergency basis by the other license-issuing state, if the eligibility requirements imposed by that state for the temporary or emergency license are substantially comparable to Ohio's eligibility requirements for a standard concealed handgun license or temporary emergency concealed handgun license and if that license-issuing state recognizes an Ohio temporary emergency concealed handgun license. Existing law also prohibits the Attorney General from negotiating reciprocity agreements unless those conditions are met.¹³

The current law that regulates the places where a person with a valid Ohio concealed handgun license may carry a concealed handgun specifies that a person who holds a concealed handgun license that was issued by another state and that is recognized by the Attorney General pursuant to a reciprocity agreement entered into as described in the preceding paragraph has the same right to carry a concealed handgun in Ohio as a person who has been issued an Ohio standard concealed handgun license and is subject to the same restrictions that apply to a person who carries such an Ohio license.¹⁴

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 with any other license-issuing state if the other state recognizes Ohio standard concealed handgun licenses. The bill does not substantively alter the law governing the inclusion in reciprocity agreements of recognition of other states' temporary or emergency concealed handgun licenses. That provision continues to require substantial similarity of eligibility requirements and mutual recognition.¹⁵

In addition to the authority to negotiate reciprocity agreements as described in the preceding paragraph, the bill authorizes the Attorney General to determine if another state automatically, without written agreement, recognizes a standard concealed handgun license issued in Ohio. If the Attorney General determines that another state does recognize such a license in that manner, both of the following apply:¹⁶

¹³ R.C. 109.69(A) and (B).

¹⁴ R.C. 2923.126(D).

¹⁵ R.C. 109.69(A).

¹⁶ R.C. 109.69(B).

(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.¹⁷

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

(3) A license issued by the other state is just as valid in Ohio as if a written reciprocity agreement had been entered into.¹⁸ (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 an Ohio licensee may carry a concealed handgun. The bill instead states that a person who holds a license issued by another state that is 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.¹⁹

Definition of licensee

The bill 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*. Current law does not include a reference to a person who has a license issued by another state.²⁰

Competency certification on renewal of regular license

Under current law, a person who has been issued a standard concealed handgun license and who wishes to renew the license must file with the appropriate sheriff a completed renewal application, a certification that the person has reread a specified firearms safety pamphlet, a license renewal fee unless waived, and a competency

¹⁷ <http://www.ohioattorneygeneral.gov/Enforcement/Concealed-Carry/Reciprocity-Agreements>.

¹⁸ R.C. 109.69(B).

¹⁹ R.C. 2923.126(D).

²⁰ R.C. 2923.124(D).

certification of a specified nature. A licensee who is renewing the 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 the 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. The bill eliminates these renewed competency requirements.²¹

In the existing 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.²²

Improperly handling firearms in a motor vehicle or vessel

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.²³ A separate statute sets forth a similar prohibition against knowingly transporting or having a firearm in a vessel unless the firearm is unloaded and is carried in one of several specified ways.²⁴ 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.²⁵ 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 (or vessel), without regard to where *ammunition* otherwise is located within the vehicle (or vessel). Ammunition held in stripper-clips or in en-bloc clips is

²¹ R.C. 2923.125(F)(1), (F)(2), and (G)(4).

²² R.C. 2923.129(A)(4).

²³ R.C. 2923.16(C).

²⁴ R.C. 1547.69(D).

²⁵ R.C. 1547.69(H)(2) and 2923.16(F)(5).

not considered ammunition that is loaded into a magazine or speed loader. The bill modifies the second part of 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 (or vessel), without regard to where *the loaded magazine or speed loader* otherwise is located within the vehicle (or vessel).²⁶

Sheriff's Concealed Handgun License Issuance Expense Fund uses

Current law 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 bill 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 existing law retained by the bill, 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.²⁷

Under existing law, unchanged by the bill, 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 Identification and Investigation and the FBI and to cover administrative costs associated with issuing the license.²⁸

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

²⁶ R.C. 1547.69(A)(2) and 2923.16(K)(5)(a).

²⁷ R.C. 311.42.

²⁸ R.C. 311.42(A).

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, R.C. 109.69(B) 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." The bill's amendment to R.C. 2923.126(D) also specifies the effect of the Attorney General's recognition under R.C. 109.69(B) of a license issued by another state.

HISTORY

ACTION	DATE
Introduced	03-27-12
Reported, H. State Government & Elections	06-13-12
Passed House (59-28)	06-13-12

H0495-ph-129.docx/emr

