



Ohio Legislative Service Commission

Bill Analysis

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H.B. 203

130th General Assembly
(As Introduced)

Reps. Johnson, Henne, Gonzales, J. Adams, Conditt, Retherford, Maag, Hottinger, Terhar, Brenner, Beck, Lynch, Sprague, Becker, Derickson, Wachtmann

BILL SUMMARY

Reciprocity for concealed handgun licenses

- Requires Ohio to recognize a concealed handgun license issued by a state with which Ohio does not have a written reciprocity agreement if that state recognizes Ohio concealed handgun licenses.
- Eliminates the requirement that another state's eligibility requirements for a concealed handgun license be substantially comparable to Ohio's requirements in order for the Attorney General to enter into a written reciprocity agreement with that state.

Eligibility for a concealed handgun license

- Eliminates the requirement that a person be a resident of Ohio in order to receive or renew a concealed handgun license, and instead requires that the person reside in the United States.
- Prohibits an alien who has been admitted to the United States under a nonimmigrant visa from receiving a concealed handgun license.
- Requires an applicant for a concealed handgun license to certify that the applicant has not renounced the applicant's U.S. citizenship.
- Eliminates the minimum hours requirements for a firearms competency certification course.
- Requires such a course to include training on the locations where carrying a concealed handgun with a valid license is prohibited.

- Expands a provision of law that exempts a former military member from the competency certification requirement for a concealed handgun license.
- Makes several changes to the criminal offenses that disqualify an applicant for a concealed handgun license, including:
 - Permitting certain low-level drug offenders to obtain a concealed handgun license;
 - Allowing a person convicted of an offense relating to the regulation of business practices to obtain a concealed handgun license;
 - Explicitly prohibiting a misdemeanor domestic violence offender from receiving a concealed handgun license; and
 - Specifying that offenses punishable by certain terms of incarceration in other states disqualify the offender from receiving a concealed handgun license.
- Specifies that if a court in another state has sealed or expunged an applicant's disqualifying offense, the offense does not disqualify the applicant.
- Specifies that if a court in another state has granted an applicant relief from a factor that makes the applicant ineligible to possess a firearm, the factor does not disqualify the applicant for a license.
- Revises the circumstances under which an applicant who is currently subject to a civil protection order, a temporary protection order, or a protection order issued by a court of another state is ineligible for a concealed handgun license to match the circumstances specified in federal law.
- Specifies that an applicant is ineligible for a concealed handgun license if the applicant's out-of-state concealed handgun license is suspended for reasons similar to the reasons that trigger a license suspension in Ohio.
- Prohibits a person who has been dishonorably discharged from the U.S. armed forces from receiving a concealed handgun license.

Criminal records check for concealed handgun license

- Adds a search of the National Instant Criminal Background Check System to the required criminal records check to determine the eligibility of an applicant to receive or renew a concealed handgun license.

Concealed handgun license application forms available online

- Requires the Ohio Peace Officer Training Commission to make printable, downloadable versions of the application forms to receive or renew a concealed handgun license available online.

Renewal of concealed handgun license by mail

- Allows an active or reserve member of the U.S. armed forces, or the spouse of such a person, who is absent on active duty to renew the person's concealed handgun license by mail.

Having weapons under disability

- Expands the category of offenders who are prohibited from knowingly acquiring, having, carrying, or using any firearm or dangerous ordnance.
- Specifies that a person may not possess a firearm or dangerous ordnance if doing so would be unlawful under federal law.

Duty to retreat

- Expands the circumstances under which a person has no duty to retreat before using force in self-defense, defense of another, or defense of the person's residence.

Armed Attorney General investigators

- Authorizes the Attorney General's investigators to be armed in the same manner as sheriffs and police officers while they conduct certain investigations.

Disorderly conduct and inducing panic

- Specifies that the exercise of a constitutional or statutory right does not, in itself, constitute the crime of either disorderly conduct or inducing panic, and does not constitute reasonable, articulable suspicion of criminal activity.

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CONTENT AND OPERATION

Reciprocity for concealed handgun licenses

The bill requires Ohio to recognize a concealed handgun license issued by a state with which Ohio does not have a written reciprocity agreement if that state recognizes Ohio concealed handgun licenses.

Under the bill, the Attorney General must determine which states automatically recognize Ohio concealed handgun licenses without a written agreement between the states to honor each other's licenses (a "reciprocity agreement"). The Attorney General then must publish an official determination for each such state in the same manner as written reciprocity agreements are published. A determination has the same force and effect as a written reciprocity agreement and entitles the holder of a license from that state to carry a concealed handgun in Ohio in the same manner as an Ohio licensee.

Further, the bill eliminates the requirement that another state's eligibility requirements for a concealed handgun license be substantially comparable to Ohio's requirements in order for the Attorney General to enter into a written reciprocity agreement with that state. Instead, under the bill, the Attorney General must enter into a written agreement with any state that requires such an agreement in order to recognize Ohio concealed handgun licenses. The bill also removes a provision of law that prohibits the Attorney General from negotiating a reciprocity agreement in a manner other than the manner authorized under the statute.

However, under continuing law, if the Attorney General chooses to recognize a state's temporary or emergency concealed handgun licenses under a reciprocity agreement with that state, the eligibility requirements for that temporary or emergency license must be substantially comparable to Ohio's requirements for either a standard or a temporary emergency license.¹

¹ R.C. 109.69.



Existing law requires the Attorney General to enter into a reciprocity agreement with another state only if that state's eligibility requirements for a concealed handgun license are substantially comparable to Ohio's requirements.

Eligibility for a concealed handgun license

The bill makes several changes to the eligibility requirements to receive or renew a concealed handgun license, and makes corresponding changes to the relevant application forms.

Residency

The bill eliminates the requirement that a person be a resident of Ohio in order to receive or renew a concealed handgun license, and instead requires that the person reside in the United States. An out-of-state applicant may apply to any sheriff of any Ohio county for such a license, and must apply for renewal to the sheriff of the same county that issued the original license. A nonresident applicant for a temporary emergency license must apply to the sheriff of the county in which the person is temporarily staying.

The bill requires an out-of-state applicant to pay the continuing fee that applies to applicants or licensees who have lived in Ohio for less than five years. That fee is \$67 for a new license, \$15 for a temporary emergency license, or \$50 for a renewal, plus the actual cost of a background check. The fees are the same for an applicant or licensee who has lived in Ohio for five years or more, but except for a temporary emergency license, such a person is not required to pay the cost of a background check.²

Citizenship or immigration status

The bill disqualifies an alien who has been admitted to the United States under a nonimmigrant visa – for example, a student, tourist, or temporary work visa – from receiving a concealed handgun license. Under continuing law, an applicant need not be a U.S. citizen, but must be living legally in the United States.

The bill requires a concealed handgun license applicant who is not a U.S. citizen to provide the name of the applicant's country of citizenship and the applicant's alien registration number issued by the U.S. Citizenship and Immigration Services agency, which appears on an alien's permanent resident card (see **COMMENT**).

² R.C. 2923.125(B)(1)(a), (D)(1)(a) and (4), and (F)(4); 2923.1210; and 2923.1213.



Finally, under the bill, an applicant must certify that the applicant has not renounced the applicant's U.S. citizenship.³

Competency certification

The bill alters the requirements for the firearms competency certification that an applicant for a concealed handgun license generally must obtain. The bill eliminates the requirement that such a course include at least 12 hours of training, with two hours devoted to range time and live-fire training. And, the bill adds a requirement that the course include training on the locations where carrying a concealed handgun with a valid license is prohibited.

Under continuing law, the competency certification course must include training on the safe handling and storage of a handgun and ammunition, shooting a handgun in a safe manner, and range time and live-fire training.

The bill also expands a provision of law that exempts a former military member from the competency certification requirement to receive a concealed handgun license. Current law allows an active or reserve member of the U.S. armed forces or a former member of the U.S. armed forces who has retired or been honorably discharged within the past six years to be exempted by showing that the person received equivalent firearms training during that service. The bill removes the requirement that such a former member have retired or been discharged within the past six years.

Continuing law exempts certain retired peace officers and applicants for a temporary emergency concealed handgun license from the competency certification requirement.⁴

Criminal matters

Permanent ineligibility

The bill makes several changes to the criminal offenses that permanently disqualify an applicant for a concealed handgun license, and specifically disqualifies an applicant for similar violations in other states. Because the bill adds references to offenses committed in other states, it makes the descriptions of disqualifying offenses more general in order to include offenses committed in states that classify offenses differently than Ohio does. For example, in Ohio, a felony is punishable by imprisonment for a term exceeding one year, while a misdemeanor is punishable by

³ R.C. 2923.11(R); 2923.125(B)(6) and (D)(1)(o) and (q); 2923.1210; and 2923.1213.

⁴ R.C. 2923.125(B)(3) and (G) and 2923.1213(D).



imprisonment for six months or less. In other states, a misdemeanor might be punishable by incarceration for more than a year, or it might not carry any jail term.

Existing law disqualifies an applicant who has been convicted of, pleaded guilty to, or been adjudicated delinquent for a felony offense. The bill removes the term "felony" and replaces it with "a crime punishable by imprisonment for a term exceeding one year." However, the bill excludes two types of offenses from that category:

- Any federal or state offense pertaining to antitrust violations, unfair trade practices, restraints of trade, or other similar offenses relating to the regulation of business practices; and
- A misdemeanor punishable by imprisonment for two years or less.

More specifically, the bill affects the eligibility of a few particular types of offenders. The bill permits persons who have been charged with, been convicted of, pleaded guilty to, or been adjudicated delinquent for either of the following offenses to apply for a concealed handgun license:

- An offense involving the illegal possession, use, sale, administration, or distribution of or trafficking in a drug of abuse, if the offense was either (1) punishable by imprisonment for one year or less or (2) a misdemeanor punishable by imprisonment for two years or less. Currently, any drug offense would disqualify an applicant.
- Any of the business practices offenses listed above. Under current law, a felony offense of this type would disqualify an applicant.

The bill requires an applicant to certify that the applicant is not an unlawful user of or addicted to any controlled substance, as defined under the federal Controlled Substances Act.⁵

Further, the bill specifically prohibits a person who has been convicted of, pleaded guilty to, or been adjudicated delinquent for any domestic violence offense from receiving a concealed handgun license. Under the current statute, such a person is disqualified only for felony offenses. However, federal law generally prohibits misdemeanor domestic violence offenders from having firearms. And such a person also may be disqualified if the person is the subject of a protection order (see "**Eligibility for a concealed handgun license; Protection orders**").

⁵ 21 U.S.C. 802.

Under continuing law, unchanged by the bill, a person who has been convicted of, pleaded guilty to, or been adjudicated delinquent for assaulting a peace officer also is permanently ineligible for a concealed handgun license.⁶

Temporary ineligibility

Continuing law temporarily disqualifies certain applicants for varying periods of time on the basis of criminal charges or convictions. For example, a person convicted of resisting arrest is disqualified for a period of ten years. The bill specifically disqualifies an applicant for similar violations in other states.

Under the bill, an applicant who is under indictment for or otherwise charged with a crime punishable by imprisonment for a term exceeding one year, except for the business practices offenses listed above and except for a misdemeanor offense punishable by imprisonment for two years or less, is ineligible for a concealed handgun license while under the indictment or while the charge is pending. Existing law disqualifies persons while they are charged with or under indictment for a felony.⁷

Sealed or expunged records and relief from disability

Under the bill, if a court in another state has sealed or expunged an applicant's disqualifying offense, the offense does not disqualify the applicant. However, under continuing law, an applicant's sealed or expunged record of two or more acts of assault or negligent assault still disqualifies the applicant for five years.

Similarly, if a court in another state has granted the applicant relief from a factor that makes the applicant ineligible to possess a firearm, the bill specifies that the factor does not disqualify the applicant for a license.

Continuing law specifies that when an applicant has had a disqualifying offense sealed or expunged in Ohio (except for the assault offenses described above), or when an Ohio court has granted the applicant relief from the disability to possess a firearm, the offense or disability does not disqualify the applicant for a license.⁸

Protection orders

The bill allows an applicant who is currently subject to a civil protection order, a temporary protection order, or a protection order issued by a court of another state to receive a concealed handgun license if that order does not make the applicant ineligible

⁶ R.C. 2923.11(P); 2923.125(D)(1)(e), (n), and (r); 2923.1210; and 2923.1213 and 18 U.S.C. 922(g)(9).

⁷ R.C. 2923.11(P); 2923.125(D)(1)(d), (f), (g), and (h); 2923.1210; and 2923.1213.

⁸ R.C. 2923.125(D)(4), 2923.1210, and 2923.1213.



to possess a firearm under federal law. The bill lists a series of factors that make the subject of a protection order ineligible for a concealed handgun license. These factors are the same as the factors that, under federal law, prohibit such a person from possessing a firearm. Under the bill, the subject of a protection order may not receive a concealed handgun license if the order:

- Was issued after a hearing of which the applicant received actual notice and at which the applicant had an opportunity to participate;
- Restrains the applicant from harassing, stalking, or threatening the applicant's intimate partner or the partner's child, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or the child; and
- Includes either:
 - A finding that the applicant represents a credible threat to the physical safety of the applicant's intimate partner or child; or
 - An explicit prohibition against the use, attempted use, or threatened use of physical force against the applicant's intimate partner or the partner's child that would reasonably be expected to cause bodily injury.

"Intimate partner" means the person's spouse or former spouse, the parent of the person's child, or an individual who cohabitates or has cohabitated with the person.

Under current law, any applicant who is currently subject to a civil protection order, a temporary protection order, or a protection order issued by a court of another state is ineligible to receive a concealed handgun license.⁹

License suspensions

The bill specifies that an applicant is ineligible for a concealed handgun license if the applicant's out-of-state concealed handgun license is suspended for reasons similar to the reasons that trigger a license suspension in Ohio.¹⁰

Dishonorable discharge from the armed forces

The bill prohibits a person who has been dishonorably discharged from the U.S. armed forces from receiving a concealed handgun license.¹¹

⁹ R.C. 2923.11(Q), 2923.125(D)(1)(j), 2923.1210, and 2923.1213 and 18 U.S.C. 922(g)(8).

¹⁰ R.C. 2923.125(D)(1)(m), 2923.1210, and 2923.1213.



Continuing requirements

The remaining eligibility requirements for a concealed handgun license, which the bill does not change, are that the applicant:¹²

- Is at least 21 years of age;
- Is not a fugitive from justice;
- Is not mentally incompetent or mentally ill; and
- Desires a legal means to carry a concealed handgun for defense of the applicant or a member of the applicant's family while engaged in lawful activity.

Criminal records check for concealed handgun license

The bill adds a search of the National Instant Criminal Background Check System (NICS) to the required criminal records check to determine the eligibility of an applicant to receive or renew a concealed handgun license. The bill does not require a NICS check for a temporary emergency license application. The NICS, which the Federal Bureau of Investigation (FBI) administers, is the system certain firearms dealers must use to determine whether a customer is ineligible under federal law to receive a firearm.

Under continuing law, a sheriff must use an applicant's fingerprints and Social Security Number to request the Bureau of Criminal Identification and Investigation (BCII) to check for criminal records and records indicating that the applicant is incompetent. If necessary, the sheriff also must ask the BCII to obtain relevant information from the FBI.¹³

Concealed handgun license application forms available online

Under the bill, the Ohio Peace Officer Training Commission must make printable, downloadable versions of the application forms to receive or renew a concealed handgun license available online at the web site address at which the Commission's informational pamphlet about firearms laws is available. Continuing law

¹¹ R.C. 2923.125(D)(1)(p) and 2923.1210.

¹² R.C. 2923.125(D)(1).

¹³ R.C. 311.41 and Federal Bureau of Investigation, *National Instant Criminal Background Check System*. Available at fbi.gov/about-us/cjis/nics/nics, accessed June 12, 2013.



requires a sheriff to provide a prospective applicant with that web site address and a free application form.¹⁴

Renewal of concealed handgun license by mail

The bill allows an active or reserve member of the U.S. armed forces, or the spouse of such a person, who is absent from a particular county on active duty to renew the person's concealed handgun license by mail. Such a person must mail the required forms and fee, in addition to a copy of the person's active duty orders, to the sheriff of the county in which the person most recently resided or of an adjacent county. Alternatively, such a licensee who resides in another state may mail the materials to the sheriff of any county. As with an in-person renewal, the person must mail the materials not earlier than 90 days before, or at any time after, the license expires.¹⁵

Having weapons under disability

The bill expands the category of persons who are prohibited from knowingly acquiring, having, carrying, or using any firearm or dangerous ordnance. Whoever violates that prohibition is guilty of having weapons while under disability, which is a third degree felony.

Under the bill, a person who is under indictment for, has been convicted of, or has been adjudicated delinquent for a crime punishable by imprisonment for a term exceeding one year generally may not possess a firearm or dangerous ordnance. That type of crime is defined in the same manner as previously discussed with respect to the Concealed Carry Law. As a result, neither of the following offenses prevents a person from possessing a firearm or dangerous ordnance:

- Any federal or state offense pertaining to antitrust violations, unfair trade practices, restraints of trade, or other similar offenses relating to the regulation of business practices; or
- Any misdemeanor offense punishable by a term of imprisonment for two years or less.

Existing law specifies that a person who is under indictment for, has been convicted of, or has been adjudicated delinquent for a violent felony or a felony offense involving the illegal possession, use, sale, administration, distribution, or trafficking in any drug of abuse may not possess a firearm or dangerous ordnance.

¹⁴ R.C. 2923.125(A) and (I).

¹⁵ R.C. 2923.125(F)(1).



The bill also specifies that a person may not possess a firearm or dangerous ordnance if doing so would violate federal law.

Continuing law prohibits a fugitive from justice, an individual who is drug dependent, in danger of drug dependence, or a chronic alcoholic, and certain mentally ill or incompetent individuals from possessing a firearm or dangerous ordnance.¹⁶

Duty to retreat

The bill expands the circumstances under which a person has no duty to retreat before using force in self-defense, defense of another, or defense of the person's residence. Under the bill, such a person need not retreat if the person is in a place that the person lawfully has a right to be. Current law specifies that such a person need not retreat if the person lawfully is in the person's residence, the person's vehicle, or the vehicle of an immediate family member.¹⁷

Armed Attorney General investigators

The bill authorizes the Attorney General's investigators to be armed in the same manner as sheriffs and police officers while they conduct certain investigations. Specifically, under the bill, those investigators may be armed while they investigate civil or criminal offenses related to the Medicaid program, nursing homes, and residential care facilities, and instances of abuse or neglect in care facilities.¹⁸

Disorderly conduct and inducing panic

The bill specifies that the exercise of a constitutional or statutory right does not, in itself, constitute the crime of either disorderly conduct or inducing panic, and does not constitute reasonable, articulable suspicion of criminal activity.¹⁹ The U.S. Supreme Court has ruled that reasonable, articulable suspicion of criminal activity is the minimum constitutional standard that allows law enforcement briefly to detain and sometimes to frisk an individual.²⁰

Under continuing law, disorderly conduct consists of recklessly causing inconvenience, annoyance, or alarm to another by engaging in certain violent or offensive behavior. Continuing law defines inducing panic as causing the evacuation of

¹⁶ R.C. 2923.11(P), 2923.13, and 2923.14.

¹⁷ R.C. 2901.09.

¹⁸ R.C. 109.85 and 109.86.

¹⁹ R.C. 2917.11 and 2917.31.

²⁰ *Terry v. Ohio*, 391 U.S. 1 (1968).



a public place, or otherwise causing serious public inconvenience or alarm, by spreading a false report or warning of a disaster or recklessly engaging in certain other behavior.²¹

COMMENT

The bill appears to exclude some U.S. nationals from applying for a concealed handgun license. Under the bill, any applicant who is not a U.S. citizen must provide the applicant's alien registration number. All U.S. citizens are considered to be U.S. nationals. However, certain individuals – primarily those born in American Samoa and Swains Island – are U.S. nationals but not U.S. citizens. Since these individuals are not aliens, they do not have alien registration numbers, and thus would not have the required information to complete the application.²²

HISTORY

| ACTION | DATE |
|------------|----------|
| Introduced | 06-11-13 |

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²¹ R.C. 2917.11 and 2917.31.

²² R.C. 2923.125(B)(6); 8 U.S.C. 1101(a)(29), 1401, and 1408.

