



*Synopsis of Senate Committee Amendments**

Dennis Papp

Legislative Service Commission

Sub. H.B. 12

125th General Assembly
(S. Judiciary on Criminal Justice)

Application for, and issuance of, a license to carry concealed handguns (hereafter, a "license")

Removes the provision in the House-passed version of the bill that waives the application fee for certain retired corrections officers who apply for a license.

Removes the provision in the House-passed version of the bill that waives the competency certification requirement for applicants who are retired peace officers, federal law enforcement officers, corrections officers, or natural resource officers and instead provides that their retirement document is valid for six years as a competency certification to be submitted with an application.

Removes the provision in the House-passed version of the bill that provides that a license issued in Ohio or an Ohio political subdivision other than under the bill is valid as a competency certification to be submitted with an application.

Removes the provision in the House-passed version of the bill that permits a person who otherwise is ineligible for a license because of a mental incompetency adjudication or involuntary hospitalization to obtain a certificate showing remission of the disqualifying condition or a court order reversing or vacating the adjudication, and to thereby eliminate the ineligibility.

Adds provisions that require an applicant to submit a certification that the applicant has read the pamphlet that the OPOTC must prepare regarding gun laws, dispute resolution, and use of deadly force matters and to submit a set of fingerprints.

In the provision in the House-passed version of the bill that makes an applicant ineligible for a license because of a mental incompetency adjudication or involuntary hospitalization, modifies and broadens the mental health-related terminology used as the basis of the ineligibility.

* This synopsis does not address amendments that may have been adopted on the Senate floor.

In the provision of the House-passed version of the bill that makes an applicant ineligible for a license because of being the subject of a protection order, clarifies and broadens the protection order-related terminology used as the basis of the ineligibility.

Provides that a license must include a unique combination of letters and numbers that identify the county of issuance, using codes and procedures prescribed by the OPOTC.

Removes the provision in the House-passed version of the bill that requires a sheriff who denies an application for a license to file a court proceeding to authorize the denial and replaces that provision with a provision authorizing the applicant to appeal the sheriff's denial of the application under the Administrative Procedure Act.

Replaces the procedure in the House-passed version of the bill for an applicant's challenge of information determined in a criminal records check that was the basis of a denial of a license application with a procedure for an applicant's challenge of the records check results under the sheriff's or the Bureau of Criminal Identification and Investigation's challenge and review procedures.

Requires a person who applies for renewal of a license to submit with the application a certification that the applicant has reread the pamphlet that the OPOTC must prepare regarding gun laws, dispute resolution, and use of deadly force matters, a new set of fingerprints, and a competency certification that is not older than six years or a renewed competency certification.

Specifies that each course, class, or program in firearms training used for competency certification purposes must provide each person who takes the course, class, or program with the OPOTC-prepared pamphlet described above, that the course, class, or program must include at least two hours of range time and live-fire training and at least ten hours of training in the other specified matters, that the other specified matters of training include proper storage practices for handguns and ammunition, and that the competency certification must be dated and attest that the person passed the competency examination.

Requires the competency examination to include a physical demonstration that the applicant has the "attitude" necessary to shoot a handgun safely.

Enacts procedures by which a person who has been issued a license may obtain renewed competency certification and specifies when a renewed competency certification is necessary.

Requires competency certification to be dated and attest that applicant passed the competency examination.

Requires a sheriff who issues or renews a license, or issues a replacement license, to make available through LEADS all information contained on the license, requires a



sheriff who suspends or revokes a license to make available through LEADS a notation of that fact, requires a sheriff to make available through LEADS to fact that a license is lost or destroyed, requires the State Highway Patrol to ensure that LEADS can be used to transmit such information, specifies that law enforcement agencies may use the information a sheriff makes available through LEADS for law enforcement purposes only, provides that the information is confidential and is not a public record, and prohibits any person from releasing or disseminating the information in a manner not described in this paragraph.

Modifies the form included in the House-passed version of the bill for making applications for licenses to conform it to the other provisions of the bill.

Background checks and related matters

Requires a sheriff who receives an application for a license to obtain the applicant's fingerprints by using an electronic fingerprint reading device or, if the sheriff conducting the check does not possess or have ready access to such a device, by using standard fingerprint impression sheets.

Requires a sheriff who receives an application for a license to conduct an incompetency records check, in addition to a criminal records check, of the applicant.

Provides that criminal and incompetency records checks conducted regarding an applicant for a license must be conducted through the use of an electronic fingerprint reading device or, if the sheriff does not possess or have ready access to such a device, by the Bureau of Criminal Identification and Investigation (BCII) using the standard fingerprint impression sheets and social security numbers (instead of through the use of LEADS).

Revises the criteria that determine whether a sheriff who receives an application for a license is to cease an investigation of the applicant, when the applicant decides not to continue with the application process.

Provides an exception to the provision that otherwise requires a sheriff to destroy all records regarding an application for a license, when the applicant appeals a denial of the license or challenges the results of the criminal records check used.

Duties of a person who has been issued a license; restrictions on places where a licensee may carry a handgun

Requires a person who has been issued a license, who is stopped for a law enforcement purpose, other than while in a vehicle, and who is carrying a concealed handgun to inform any approaching law enforcement officer that the person has a license and is carrying a concealed handgun.

Revises the list of places the House-passed version of the bill specifies as being places where a license does not authorize the licensee to carry a concealed handgun (i.e., prohibited places) as follows: (1) specifies that all areas (not just secured areas) of a police station, sheriff's office, etc., are prohibited places, (2) revises the prohibited areas in school safety zones, as described below, (3) specifies that premises leased by public or private colleges, universities, and other institutions of higher education, as well as premises they own, generally are prohibited places, (4) adds day-care centers and day-care homes as prohibited places, subject to specified exceptions for persons who reside in a day-care home, (5) adds aircraft that are in, or intended for operation in, foreign air transportation, interstate air transportation, intrastate air transportation, or the transportation of mail by air as prohibited places, and (6) adds buildings owned by Ohio or an Ohio political subdivision, and all portions of buildings they do not own but that they lease, as prohibited places.

Removes the provision in the House-passed version of the bill that permits a person who has been issued a license to keep a handgun in a locked motor vehicle on premises of the person's employer (i.e., the "employee parking lot exception").

Expands the provisions in the House-passed version of the bill that require certain persons and entities to post their premises as "prohibited places" for carrying a concealed handgun to also require such posting by: (1) the owner, administrator, or operator of a day-care center or day-care home that is a prohibited place, and (2) the officer of Ohio or of the Ohio political subdivision, or the officer's designee, who has charge of a building owned by Ohio or the political subdivision, and all portions of buildings they do not own but that they lease, that are prohibited places.

Ohio Peace Officer Training Commission (OPOTC)

Expands the content of the pamphlet that the OPOTC must prepare (also requires it to be prepared in consultation with the Attorney General) to require it to provide, in addition to the information on firearm laws, information on dispute resolution and related laws and information on the use of deadly force matters and related laws, requires that the pamphlet be distributed to sheriffs and persons and entities that operate or teach firearms training course and to persons who take such a course, and requires an applicant for a license, or renewal of such a license, to certify that the applicant has read the pamphlet.

Modifies the criteria that govern the OPOTC in prescribing the fee that an applicant for a license, or renewal of such a license, must pay and requires it to consult with the Attorney General when prescribing the fee.

Specifies that the statistics and statistical reports maintained by the OPOTC regarding the issuance, renewal, suspension, revocation, and denial of license, based on information received from sheriffs, are public records and that must identify or enable the identification of any licensee.

Removes the provision in the House-passed version of the bill that specifies that the OPOTC is to oversee compliance by sheriffs with the bill's records destruction requirements.

Attorney General (AG)

Requires the Attorney General to enter into reciprocity agreements with other states that issue licenses in specified circumstances and treats a license issued by a reciprocity state in the same manner as if it were an Ohio license issued under the bill; requires the Attorney General to consult with and assist the OPOTC in the preparation of the pamphlet that OPOTC prepares.

Office of Criminal Justice Services (OCJS)

Requires the OCJS to prepare a poster and brochure describing safe firearms practices and furnish it to federally licensed firearms dealers for their use as described below.

Offense of "carrying concealed weapons"

Regarding the existing handgun-related prohibition in the offense: (1) removes an exemption in the House-passed version of the bill for corrections officers, (2) provides that the exemption for other specified officials applies only when they are acting within the scope of their duties, (3) removes an exemption in the House-passed version of the bill for certain persons who do not know a handgun is in their vehicle, (4) removes an affirmative defense in the House-passed version of the bill for persons who were eligible for a license but had not acquired one, (5) removes a prohibition in the House-passed version of the bill against the use in future criminal prosecutions of the fact that a person previously charged with the prohibition used an affirmative defense regarding the prior charge, and (6) changes the penalties for the offense.

Enacts a new prohibition within the offense that prohibits a person who possesses a license, who is stopped for a law enforcement purpose, and who is carrying a concealed handgun from failing to inform any approaching law enforcement officer that the person has a license and is carrying a concealed handgun and makes a violation of the prohibition a misdemeanor of the fourth degree.

Offense of "improperly handling firearms in a motor vehicle"

Regarding the existing prohibitions in the offense, changes the culpable mental state that is an element of the prohibitions from "knowingly" to "recklessly" (hereafter, these prohibitions are referred to in this part of the Synopsis as "the existing prohibitions").

Increases the penalty for a violation of the existing prohibition that generally prohibits the discharge of a firearm while in or on a motor vehicle to a felony of the fourth degree.

Changes the penalty for a violation of the existing prohibition that generally prohibits the having of a loaded firearm in a motor vehicle so that it is: (1) if the offender has been issued and is carrying a license and is not in a prohibited place, a misdemeanor of the first degree or, for a repeat offender, a felony of the fourth degree, and (2) if clause (1) does not apply, a felony of the fourth degree.

Regarding the existing prohibitions that generally relate to the transportation or possession of a handgun in a motor vehicle, replaces an exemption in the House-passed version of the bill that applies to person who has been issued and is carrying a license and is not knowingly in a prohibited place with an exemption that applies to a person who has been issued and is carrying a license, who is not recklessly in a prohibited place, and who is transporting or possessing the handgun as follows: (1) if no person under 18 is in the vehicle, either the handgun is in a holster and in plain sight or the handgun is securely encased by being stored in a closed, locked glove compartment or in a gun case that is in plain sight and is locked, or (2) if one or more persons under 18 is in the vehicle, the handgun is not on the person of the person transporting or possessing the handgun and the handgun is securely encased in a manner specified in clause (1) of this paragraph.

Regarding the existing prohibitions that generally relate to the transportation or possession of a handgun in a motor vehicle: (1) removes an exemption in the House-passed version of the bill for certain persons who do not know a handgun is in their vehicle, (2) removes a provision in the House-passed version of the bill that specifically states that self defense is an affirmative defense, (3) removes an affirmative defense in the House-passed version of the bill for persons who were eligible for a license but had not acquired one, and (4) removes a prohibition in the House-passed version of the bill against the use in future criminal prosecutions of the fact that a person previously charged with the prohibition used an affirmative defense regarding the prior charge;

Enacts a new prohibition in the offense that prohibits a person from recklessly transporting or having a loaded handgun in a motor vehicle while under the influence of alcohol, a drug of abuse, or a combination of them or while the person is in violation of the *per se*, prohibited concentration prohibitions of the state OVI offense under existing R.C. 4511.19, and makes a violation of the prohibition a felony of the fifth degree.

Enacts a new prohibition that prohibits a person who has been issued a license, who is the driver or an occupant of a vehicle that is stopped for any law enforcement purpose, and who has a loaded handgun from failing to inform any approaching law enforcement officer that the person has a license and has a loaded handgun in the vehicle, and makes a violation of the prohibition a misdemeanor of the fourth degree.



Enacts a new prohibition that prohibits a person who has been issued a license, who is the driver or an occupant of a vehicle that is stopped for any law enforcement purpose, who has a loaded handgun, and who is approached while stopped by a law enforcement officer from recklessly carrying, or having or making contact with, a loaded handgun in the vehicle while the officer is approaching, unless the officer gives explicit instructions to have or make contact with the handgun, and makes a violation of the prohibition a misdemeanor of the first degree or, for a repeat offender, a felony of the fifth degree.

Offense of "illegal possession of a firearm in liquor permit premises"

Removes provisions in the House-passed version of the bill that: (1) provide an exemption from the prohibitions for corrections officers, (2) in the exemption for other specified officials, eliminated the requirement that they be acting within the scope of their duties, (3) provide an exemption for the holder of the D permit for the premises in question, (4) provide an exemption for employees of the holder of the D permit who are authorized by the holder and who are carrying a valid license, and (5) prohibit the use in future criminal prosecutions of the fact that a person previously charged with the offense used an affirmative defense regarding the prior charge.

Offense of "illegal conveyance or possession of a deadly weapon or dangerous ordnance in a school safety zone"

Modifies the exemption from the offense contained in the House-passed version of the bill for persons carrying a valid license, acting in accordance with a specified federal law, and not present in a prohibited place so that the exemption applies only if, at the time in question, the person does not enter into a school building or onto school premises and is not at a school activity.

Prohibitions related to firearms in a courthouse

Modifies the exemption from the prohibitions contained in the House-passed version of the bill for persons carrying a valid license who transfer possession of their handgun to a person who has charge of the courthouse to clarify that the exemption applies only if the person in charge of the courthouse offers that service and that the person in charge of the courthouse does not have to offer that service.

Prohibitions related to firearms in a vessel

Removes provisions in the House-passed version of the bill that: (1) specify that self-defense is an affirmative defense to the discharge prohibition, (2) prohibit the use in future criminal prosecutions of the fact that a person previously charged with one of these prohibitions used an affirmative defense regarding the prior charge.



Offense of "having weapons while under a disability"

In the existing provision that specifies that a person's "being under an adjudication of mental incompetence" is a disability that prohibits the person from having, using, etc., any firearm or dangerous ordnance, modifies and broadens the mental health-related terminology used as the basis of the disability.

Duties of federally licensed firearms dealers

Requires federally licensed firearms dealers to: (1) offer for sale to each firearms purchaser a trigger lock, gun lock, etc., (2) post in the dealer's place of business the pamphlet that OCJS prepares describing safe firearms practices, and (3) make available to firearms purchasers the brochure that OCJS prepares describing safe firearms practices.

Information for use in incompetency records checks

Specifies that if, on or after the bill's effective date, an individual is found by a court to be a mentally ill person subject to hospitalization by court order or becomes an involuntary mental health patient other than one who is a patient only for purposes of observation, the probate judge who made the adjudication or the chief clinical officer of the facility where the person is a patient must notify BCII (on a form prescribed by the AG) of the identity of the individual, requires BCII to compile and maintain the notices it so receives, and requires BCII to use the notices to conduct the incompetency records check of applicant for licenses.

Miscellaneous

Changes the definition of "handgun" that applies throughout the Weapons Control Law, including the provisions of the bill.

Specifies that a peace officer has the same right to carry a concealed weapon in Ohio as a person who was issued a license under the bill, and is to be considered a licensee for reciprocity purposes.

In the provision of the House-passed version of the bill that provides for the suspension or revocation of a license when the licensee becomes the subject of a protection order, clarifies and broadens the protection order-related terminology used as the basis of the suspension or revocation.

Adds a provision that specifically states that political subdivisions are immune from liability, to the extent and to the manner provided in the existing Political Subdivision Sovereign Immunity Law, for damages allegedly caused by or related to a person who has been issued a license bringing a handgun onto premises or property the subdivision owns, leases, or controls.

Provides a qualified immunity from civil liability for entities and instructors who provide a renewed competency certification, regarding any damage caused by or related to a person to whom the entity or person issued a renewed competency certification.

In a provision in the House-passed version of the bill that pertains to a civil immunity of law enforcement agencies that employ peace officers from damages allegedly caused by an act of a peace officer so employed while off duty and related to the use of a concealed handgun, specifically makes reference to the application of the existing Political Subdivision Sovereign Immunity Law, as well as to the application of existing R.C. 9.86 and 9.87.

Expands the provisions in the House-passed version of the bill that provide for the bill's preemption of local regulations regarding the carrying of concealed handguns.

H0012-125.doc/ejs

06/18/03

