



Sub. H.B. 347*

126th General Assembly
(As Reported by H. Criminal Justice)

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BILL SUMMARY

- Provides that the General Assembly finds the need to provide uniform laws throughout the state regulating the ownership, possession, purchase, other acquisition, transport, carrying, sale, or other transfer of firearms, their components, and their ammunition, and, except as specifically provided by the U.S. or Ohio constitutions or by state or federal law, a person may, without further license, permission, restriction, delay, or process own, possess, purchase, sell, transfer, transport, or keep any firearm, part of a firearm, its components, and its ammunition.
- Requires the court to award costs and reasonable attorney fees to any person who prevails in a challenge to an ordinance, rule, or regulation that is in conflict with the provision described in the previous dot point.
- Specifies that the provisions described in the preceding two dot points do not apply to either (1) a zoning ordinance that regulates or prohibits the commercial sale of firearms, firearm components, or ammunition for firearms in areas zoned for residential or agricultural uses or (2) a zoning ordinance that specifies the hours of operation or the geographic areas where the commercial sale of firearms, firearm components, or

** This analysis was prepared before the report of the House Criminal Justice Committee appeared in the House Journal. Note that the list of co-sponsors and the legislative history may be incomplete.*

ammunition for firearms may occur, provided that the zoning ordinance is consistent with zoning ordinances for other retail establishments in the same geographic area and does not result in a de facto prohibition of the commercial sale of firearms, firearm components, or ammunition for firearms in areas zoned for commercial, retail, or industrial uses.

- Removes the requirement that when a concealed carry licensee knowingly transports or has a loaded handgun in a motor vehicle the loaded handgun either must be in plain sight or in a case that is in plain sight.
- Requires BCII special agents and certain peace officers in addition to those currently specified to successfully complete a firearms requalification program.
- Specifies that the prohibitions against a person possessing a firearm in a liquor permit premises, school safety zone, or courthouse or carrying a concealed weapon also do not apply to any person who is subject to and in compliance with the firearms requalification requirements unless the appointing authority of the person has expressly specified that the exemption does not apply to that person.
- Eliminates the fee distinction for a license to carry a concealed handgun or renewal license based on the number of years a person has been a resident of Ohio and increases the fee by \$10 for an application made on or after the effective date of the bill.
- Requires a sheriff to accept a completed affidavit for a temporary emergency license and the accompanying information and fee at any time during normal business hours, and prohibits a sheriff from requiring an appointment or designating a specific period of time for the submission or acceptance of this information or the provision to any person of an application form or renewal application.
- Directs a sheriff to accept an application for a concealed carry license at least 15 hours a week, the hours of which must be posted.
- Prohibits a person who is illegally in the United States from obtaining a concealed carry license, a license renewal, or a temporary emergency license.

- Specifies that a renewal application may be filed not earlier than 90 days before the expiration date of the license and not later than 30 days after the expiration of the license.
- For a license issued on or after the effective date of the bill, extends the validity of a license by one year, so that a license issued on or after the effective date of the bill expires five years after the date of issuance.
- States that an appeal of a conceal carry license denial must be brought in the county served by the sheriff who denied the application.
- Increases the penalty for a concealed carry licensee who fails to inform a law enforcement officer who has stopped the licensee that the person has a loaded handgun in a motor vehicle from a misdemeanor of the fourth degree to a misdemeanor of the third degree.
- Increases the penalty for a person who knowingly has a loaded handgun in a motor vehicle while under the influence of alcohol, a drug of abuse, or a combination of them or in violation of state OVI law from a felony of the fifth degree to a felony of the fourth degree if the loaded handgun is concealed on the person's person.
- Makes other changes to the Concealed Carry Licensing Law.

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CONTENT AND OPERATION

Need to provide uniform laws with respect to regulation of firearms

The bill enacts a new provision that states that the individual right to keep and bear arms, being a fundamental individual right that predates the U.S. and Ohio constitutions, and being a constitutionally protected right in every part of Ohio, the General Assembly finds the need to provide uniform laws throughout the state regulating the ownership, possession, purchase, other acquisition, transport, carrying, sale, or other transfer of firearms, their components, and their ammunition. Except as specifically provided by the U.S. or Ohio constitutions, or state or federal law, a person, without further license, permission, restriction, delay, or process may own, possess, purchase, sell, transfer, transport, or keep any firearm, part of a firearm, its components, and its ammunition. In addition to any other relief provided, the bill requires a court to award costs and reasonable attorney fees to any person, who prevails in a challenge to an ordinance, rule, or regulation that is in conflict with the above described provision.

These provisions do not apply, however, to the following (R.C. 9.68):

(1) A zoning ordinance that regulates or prohibits the commercial sale of firearms, firearm components, or ammunition for firearms in areas zoned for residential or agricultural uses;

(2) A zoning ordinance that specifies the hours of operation or the geographic areas where the commercial sale of firearms, firearm components, or ammunition for firearms may occur, provided that the zoning ordinance is consistent with zoning ordinances for other retail establishments in the same geographic area and does not result in a de facto prohibition of the commercial sale of firearms, firearm components, or ammunition for firearms in areas zoned for commercial, retail, or industrial uses.

The bill states that the possession, transporting, or carrying of firearms, their components, or their ammunition include, but are not limited to, the possession, transporting, or carrying, openly or concealed on a person's person or concealed ready at hand, of firearms, their components, or their ammunition (R.C. 9.68(C)(1)).

Completion of a firearms requalification program

Current law

Current law requires the following persons to successfully complete a firearms requalification program approved by the Executive Director of the Ohio Peace Officer Training Commission each year: any sheriff, deputy sheriff, marshal, deputy marshal, township constable, chief of police or member of an organized police department of a municipal corporation or township, chief of police or member of a township police district police force, Superintendent of the State Highway Patrol, State Highway Patrol trooper, special police officer of the State Highway Patrol designated under R.C. 5503.09, enforcement agent employed under R.C. 5502.14, or chief of police of a university or college police department or state university law enforcement officer appointed under R.C. 3345.04; any parole or probation officer who carries a firearm in the course of official duties; any employee of the Department of Natural Resources who is a natural resources law enforcement staff officer, park officer, forest officer, preserve officer, wildlife officer, or state watercraft officer who carries a firearm in the course of official duties; the House of Representatives sergeant at arms if the sergeant at arms has arrest authority pursuant to R.C. 101.311(E)(1); any assistant House of Representatives sergeant at arms; any employee of the Department of Youth Services who is designated pursuant to R.C. 5139.53(A)(2) as being authorized to carry a firearm while on duty as described in that provision; or a special police officer employed by a municipal corporation at a municipal airport or other municipal air navigation facility described in R.C. 109.71(A)(19). None of these persons is permitted to carry a firearm during the course of official duties if the person does not comply with the requirement to complete a firearms requalification program. (R.C. 109.801(A).)

The bill

The bill modifies the categories of persons who are required to successfully complete a firearms requalification program by specifying that each year any of the following persons *who are authorized to carry firearms in the course of their official duties* must successfully complete the firearms requalification program (R.C. 109.71(A)(1) and 109.801(A)(1)):

(1) Any peace officer as defined in R.C. 109.71(A)(1); this definition includes many of the peace officers included in this section and additionally includes other peace officers that existing law does not require to have firearms requalification training (see *Definition of "peace officer"*," below, for a list of the additional peace officers who must have such training);

(2) Sheriff;

(3) Chief of police of an organized police department of a municipal corporation or township;

(4) Chief of police of a township police district police force;

(5) Superintendent of the State Highway Patrol or State Highway Patrol trooper;

(6) Chief of police of a university or college police department;

(7) Any parole or probation officer who carries a firearm in the course of official duties;

(8) The House of Representatives sergeant at arms if the sergeant at arms has arrest authority pursuant to R.C. 101.311(E)(1);

(9) Any assistant House of Representative s sergeant at arms;

(10) Any employee of the Department of Youth Services who is designated pursuant to R.C. 5139.53(A)(2) as being authorized to carry a firearm while on duty as described in that provision;

(11) An investigator of the Bureau of Criminal Identification and Investigation (BCII) who is commissioned by the Superintendent of BCII as a special agent.

Definition of "peace officer." Current law defines "peace officer" for purposes of the R.C. provisions governing the Peace Officer Training Commission. Because the bill makes that definition applicable to the firearms requalification section and requires all peace officers to have firearms requalification training, all of the following peace officers must have annual firearms requalification training. The peace officers in italics are added by the bill to the list of who must have the training (R.C. 109.71(A)(1) and 109.801(A)):

(1) A deputy sheriff, marshal, deputy marshal, member of the organized police department of a township or municipal corporation, member of a township police district or joint township police district police force, *member of a police*

force employed by a metropolitan housing authority under R.C. 3735.31(D), or township constable, who is commissioned and employed as a peace officer by a political subdivision of Ohio or by a metropolitan housing authority, and whose primary duties are to preserve the peace, to protect life and property, and to enforce the laws of Ohio, ordinances of a municipal corporation, resolutions of a township, or regulations of a board of county commissioners or board of township trustees, or any of those laws, ordinances, resolutions, or regulations;

(2) A police officer who is employed by a railroad company and appointed and commissioned by the governor pursuant to R.C. 4973.17 to 4973.22;

(3) Employees of the Department of Taxation engaged in the enforcement of R.C. Chapter 5743. and designated by the Tax Commissioner for peace officer training for purposes of the delegation of investigation powers under R.C. 5743.45;

(4) An undercover drug agent;

(5) Enforcement agents of the Department of Public Safety whom the Director of Public Safety designates under R.C. 5502.14;

(6) An employee of the Department of Natural Resources who is a natural resources law enforcement staff officer designated pursuant to R.C. 1501.013, a park officer designated pursuant to R.C. 1541.10, a forest officer designated pursuant to R.C. 1503.29, a preserve officer designated pursuant to R.C. 1517.10, a wildlife officer designated pursuant to R.C. 1531.13, or a state watercraft officer designated pursuant to R.C. 1547.521;

(7) An employee of a park district who is designated pursuant to R.C. 511.232 or 1545.13;

(8) An employee of a conservancy district who is designated pursuant to R.C. 6101.75;

(9) A police officer who is employed by a hospital that employs and maintains its own proprietary police department or security department, and who is appointed and commissioned by the governor pursuant to R.C. 4973.17 to 4973.22;

(10) Veterans' homes police officers designated under R.C. 5907.02;

(11) A police officer who is employed by a qualified nonprofit corporation police department pursuant to R.C. 1702.80;



(12) A state university law enforcement officer appointed under R.C. 3345.04 or a person serving as a state university law enforcement officer on a permanent basis on June 19, 1978, who has been awarded a certificate by the Executive Director of the Ohio Peace Officer Training Commission attesting to the person's satisfactory completion of an approved state, county, municipal, or Department of Natural Resources peace officer basic training program;

(13) *A special police officer employed by the Department of Mental Health pursuant to R.C. 5119.14 or the Department of Mental Retardation and Developmental Disabilities pursuant to R.C. 5123.13;*

(14) *A member of a campus police department appointed under R.C. 1713.50;*

(15) *A member of a police force employed by a regional transit authority under R.C. 306.35(Y);*

(16) *Investigators appointed by the Auditor of State pursuant to R.C. 117.091 and engaged in the enforcement of R.C. Chapter 117.;*

(17) A special police officer designated by the Superintendent of the State Highway Patrol pursuant to R.C. 5503.09 or a person who was serving as a special police officer pursuant to that section on a permanent basis on October 21, 1997, and who has been awarded a certificate by the Executive Director of the Ohio Peace Officer Training Commission attesting to the person's satisfactory completion of an approved state, county, municipal, or Department of Natural Resources peace officer basic training program;

(18) *A special police officer employed by a port authority under R.C. 4582.04 or 4582.28 or a person serving as a special police officer employed by a port authority on a permanent basis on May 17, 2000, who has been awarded a certificate by the Executive Director of the Ohio Peace Officer Training Commission attesting to the person's satisfactory completion of an approved state, county, municipal, or Department of Natural Resources peace officer basic training program;*

(19) A special police officer employed by a municipal corporation who has been awarded a certificate by the Executive Director of the Ohio Peace Officer Training Commission for satisfactory completion of an approved peace officer basic training program and who is employed on a permanent basis on or after March 19, 2003, at a municipal airport, or other municipal air navigation facility, that has scheduled operations, as defined in section 119.3 of Title 14 of the Code of Federal Regulations and that is required to be under a security program and is governed by aviation security rules of the transportation security administration of



the United States Department of Transportation as provided in Parts 1542. and 1544. of Title 49 of the Code of Federal Regulations, as amended;

(20) *A police officer who is employed by an owner or operator of an amusement park that has an average yearly attendance in excess of 600,000 guests and that employs and maintains its own proprietary police department or security department, and who is appointed and commissioned by a judge of the appropriate municipal court or county court pursuant to R.C. 4973.17.*

The Concealed Carry Licensing Law

Applying for a concealed carry license

Current law. Continuing law provides that upon the request of a person who wishes to obtain a license to carry a concealed handgun or to renew a license to carry a concealed handgun, a sheriff must provide the person an application form and a pamphlet describing firearms, dispute resolution, and use of deadly force matters. The applicant, then, must submit a completed application to the sheriff of the county in which the applicant resides or to the sheriff of any adjacent county. The application must be accompanied by the application fee discussed below in "**Fee for a concealed carry license or renewal license**" unless waived by the sheriff, a color photograph of the applicant taken within 30 days of the date of application, a competency certification, a certification by the applicant that the applicant has read the firearms pamphlet, and a set of fingerprints. (R.C. 2923.125(A) and (B).)

If an applicant is applying for the renewal of a concealed carry license, current law provides that the applicant must apply within 30 days after the expiration date of the license. An applicant for a renewal license must also submit a color photograph of the applicant taken within 30 days of the date of application, a certification by the applicant that the applicant has reread the firearms pamphlet, a new set of fingerprints, a competency certification that is not older than six years, and the license fee. (R.C. 2923.125(F).)

If an applicant is applying for a temporary emergency license, the applicant must submit to the sheriff of the county where the applicant resides (1) evidence of imminent danger to the person or a member of the person's family, (2) a sworn affidavit containing all of the information described below in "**Requirements that an applicant must satisfy to receive a license**," except for the residency requirements specified by paragraph (1) of that section, (3) a fee, and (4) a set of fingerprints (R.C. 2923.1213(B)(1)).

The bill. The bill specifies that the sheriff must accept an affidavit for a temporary emergency license and the fee, items, materials, and information



specified in the preceding paragraphs, at any time during normal business hours. The bill prohibits a sheriff from requiring an appointment or designating a specific period of time for the submission or acceptance of the affidavit and accompanying information. The bill also prohibits a sheriff from requiring an appointment or designating a specific period of time for the provision to any person of an application form or renewal application and the firearms pamphlet. (R.C. 2923.1213(B)(2) and (I).)

For a completed application form or renewal application form and the fee, items, materials, and information that must accompany the form, the bill requires a sheriff to accept this information during at least 15 hours a week and requires the sheriff to post notice of the hours during which the sheriff is so available (R.C. 2923.125(A) and (I)).

The bill also specifies that a renewal application may be filed not earlier than 90 days before the expiration date of the license and not later than 30 days after the expiration of the license (R.C. 2923.125(F)).

Criminal records check

Current law. Upon receipt of an applicant's completed application form, renewal application form, or temporary emergency license affidavit, fee, and supporting documentation, the sheriff must conduct or cause to be conducted a criminal records check and incompetency records check to determine whether the applicant fails to meet the criteria described below in "**Requirements that an applicant must satisfy to receive a license.**" If the sheriff has access to an electronic fingerprint reading device, the sheriff is responsible for conducting these record checks. However, if the sheriff does not use an electronic fingerprint reading device, the sheriff must submit the completed standard fingerprint impression sheet of the applicant, along with the applicant's social security number, to the Superintendent of BCII and request BCII to conduct the records checks. If necessary, the sheriff must also request BCII to obtain information from the FBI as part of the criminal records check. Unless an application is denied and the applicant files an appeal, as described below in "**Appeal of a license denial,**" if a records check fails to reveal any of the disqualifying factors described below in "**Requirements that an applicant must satisfy to receive a license,**" all records other than the application must be destroyed. (R.C. 311.41, 2923.125(C), and 2923.1213(B)(2).)

The bill. The bill removes the requirement that the sheriff request BCII to obtain information from the FBI and instead directs the Superintendent of BCII to request from the FBI any information the FBI has with respect to the applicant. The bill also directs the Superintendent of BCII to review or cause to be reviewed

any information the Superintendent receives from the FBI. (R.C. 311.41(A)(1) and 2923.125(C).)

Requirements that an applicant must satisfy to receive a license

Current law. Under continuing law, to qualify for a license to carry a concealed handgun or to renew a license to carry a concealed handgun, an applicant must satisfy all of the following (R.C. 2923.125(D)(1) and 2923.1210):

(1) The applicant has been a resident of Ohio for at least 45 days and a resident of the county in which the person seeks the license or a county adjacent to the county in which the person seeks the license for at least 30 days.

(2) The applicant is at least 21 years of age.

(3) The applicant is not a fugitive from justice.

(4) The applicant is not under indictment for or otherwise charged with a felony; an offense under R.C. Chapter 2925., 3719., or 4729. that involves the illegal possession, use, sale, administration, or distribution of or trafficking in a drug of abuse; a misdemeanor offense of violence; or a violation of R.C. 2903.14 (negligent assault) or 2923.1211 (falsification of a concealed handgun license and possessing a revoked or suspended concealed handgun license).

(5) The applicant has not been convicted of or pleaded guilty to a felony or an offense under R.C. Chapter 2925., 3719., or 4729. that involves the illegal possession, use, sale, administration, or distribution of or trafficking in a drug of abuse; has not been adjudicated a delinquent child for committing an act that if committed by an adult would be a felony or would be an offense under R.C. Chapter 2925., 3719., or 4729. that involves the illegal possession, use, sale, administration, or distribution of or trafficking in a drug of abuse; and has not been convicted of, pleaded guilty to, or adjudicated a delinquent child for committing a violation of R.C. 2903.13 (assault) when the victim of the violation is a peace officer, regardless of whether the applicant was sentenced for committing that offense against a peace officer.

(6) The applicant, within three years of the date of the application, has not been convicted of or pleaded guilty to a misdemeanor offense of violence other than a misdemeanor violation of R.C. 2921.33 (resisting arrest) or a violation of R.C. 2903.13 (assault) when the victim of the violation is a peace officer, or a misdemeanor violation of R.C. 2923.1211 (falsification of a concealed handgun license and possessing a revoked or suspended concealed handgun license); and has not been adjudicated a delinquent child for committing an act that if committed by an adult would be a misdemeanor offense of violence other than a

misdemeanor violation of R.C. 2921.33 or a violation of R.C. 2903.13 when the victim of the violation is a peace officer or for committing an act that if committed by an adult would be a misdemeanor violation of R.C. 2923.1211.

(7) Except as otherwise provided in paragraph (5), above, the applicant, within five years of the date of the application, has not been convicted of, pleaded guilty to, or adjudicated a delinquent child for committing two or more violations of R.C. 2903.13 (assault) or 2903.14 (negligent assault).

(8) The applicant, within ten years of the date of the application, has not been convicted of, pleaded guilty to, or adjudicated a delinquent child for committing a violation of R.C. 2921.33 (resisting arrest).

(9) The applicant has not been adjudicated as a mental defective, has not been committed to any mental institution, is not under adjudication of mental incompetence, has not been found by a court to be a mentally ill person subject to hospitalization by court order, and is not an involuntary patient other than one who is a patient only for purposes of observation.¹

(10) The applicant is not currently subject to a civil protection order, a temporary protection order, or a protection order issued by a court of another state.

(11) The applicant certifies that the applicant 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.

(12) The applicant submits a competency certification and submits a certification regarding the applicant's reading of the firearms pamphlet.

If all of the above qualifications are met, the sheriff must issue the applicant a license within 45 days of receipt of the application, fee, and supporting documentation (immediately in the case of a temporary emergency license).² However, before actually issuing the license, the sheriff must make available, through the Law Enforcement Automated Data Systems, all information contained on the license. (R.C. 2923.125(D)(1) and (H) and 2923.1213(B)(2).)

¹ "Mentally ill person subject to hospitalization by court order" and "patient" have the same meanings as in R.C. 5122.01 (R.C. 2923.125(D)(1)(i)).

² If the sheriff determines that the applicant is a resident of the county in which the applicant seeks the license or an adjacent county but does not yet meet the residency requirements described in the first requirement, the sheriff is prohibited from denying the license on that basis, but cannot issue the license until the applicant meets the residency requirements (R.C. 2923.125(D)(4)).

The bill. The bill additionally requires that an applicant be legally in the United States (R.C. 2923.125(D)(1)(a) and (D)(4), 2923.1210, and 2923.1213(B)(1)(b)).

The bill provides that if an applicant has been convicted of or pleaded guilty to an offense identified in paragraph (5), (6), or (7) of "**Current law**," above, or has been adjudicated a delinquent child for committing an act or violation identified in any of those paragraphs, and if a court has ordered the sealing or expungement of the records of that conviction, guilty plea, or delinquent child adjudication pursuant to R.C. 2151.358 or R.C. 2953.31 to 2953.36, the sheriff with whom the application was submitted is prohibited from considering the conviction, guilty plea, or delinquent child adjudication. (R.C. 2923.125(D)(5), (D)(1)(e), (D)(1)(f), and (D)(1)(h), and 2923.1210.)

Appeal of a license denial

Current law. Under current law, if a sheriff denies an application because the applicant does not satisfy the requirements described above in "**Requirements that an applicant must satisfy to receive a license**," the sheriff must specify the grounds for denial in a written notice to the applicant. The applicant may, then, appeal the denial to the appropriate court of common pleas. (R.C. 2923.125(D)(2)(b) and 2923.1213(B)(2).)

If the sheriff denies an application as a result of the criminal records check, described above in "**Criminal records check**," and if the applicant believes the denial was based on incorrect information reported by the source the sheriff used in conducting the check, the applicant may challenge the criminal records check results using either the BCII's existing challenge and review procedure or the sheriff's existing challenge and review procedure, depending on which entity performed the check (R.C. 2923.127).

The bill. The bill specifies that if a sheriff denies an application because the applicant does not satisfy the requirements described above in "**Requirements that an applicant must satisfy to receive a license**," the applicant's appeal must be brought in the county served by the sheriff who denied the application. The bill also clarifies that in the case of an applicant challenging a criminal records check performed by a sheriff, the existing challenge and review procedure to be used is the one of the sheriff who denied the application. (R.C. 2923.125(D)(2)(b) and 2923.127(A)(2).)

The bill also specifies that if a sheriff denies the renewal of a license to carry a concealed handgun, the applicant may appeal the denial or challenge the criminal record check results in the same manner as for a license denial (R.C. 2923.125(F)).

Expiration of a license

Current law. Under current law, a license or a renewed license to carry a concealed handgun expires four years after the date of issuance. A licensee who has been issued a license has a 30-day grace period after the license expires during which the license remains valid. A temporary emergency license is valid for 90 days and may not be renewed. (R.C. 2923.125(D)(1) and (F), 2923.126(A), and 2923.1213(B)(2).)

The bill. For a license, other than a temporary emergency license, issued or renewed on or after the effective date of the bill, the bill extends the validity of a license by one year, so that a license issued or renewed on or after the effective date of the bill expires five years after the date of issuance. For a license issued or renewed prior to the effective date of the bill, the license remains valid for four years after the date of issuance. The bill makes no change to how long a temporary emergency license remains valid. (R.C. 2923.125(D)(1) and (2)(a) and (F) and 2923.126(A).)

Revocation of a license

Current law. If a licensee is subsequently arrested for or otherwise charged with an offense under R.C. Chapter 2925., 3719., or 4729. that involves the illegal possession, use, sale, administration, or distribution of or trafficking in a drug of abuse; a misdemeanor offense of violence; or a violation of R.C. 2903.14 (negligent assault) or 2923.1211 (falsification of a concealed handgun license and possessing a revoked or suspended concealed handgun license), or becomes subject to a temporary protection order, the sheriff who issued the license or temporary emergency license must suspend the license and notify the licensee of the suspension. The suspension is lifted when the charges are dismissed, the licensee is found not guilty, or the protection order terminates. (R.C. 2923.128(A).)

Current law also provides that a sheriff who issues a license or temporary emergency license must revoke the license, and notify the licensee of the revocation, upon becoming aware of any of the following (R.C. 2923.128(B)(1)):

(1) The licensee is under 21 years of age.

(2) At the time of the issuance of the license or temporary emergency license, the licensee did not satisfy the eligibility requirements described above in paragraphs (3), (4), (5), (6), (7), or (8) of **'Requirements that an applicant must satisfy to receive a license.'**

(3) On or after the date on which the license or temporary emergency license was issued, the licensee is convicted of or pleads guilty to a violation of R.C. 2923.15 (using weapons while intoxicated) or an offense described in paragraphs (5), (6), (7), or (8) of "**Requirements that an applicant must satisfy to receive a license.**"

(4) On or after the date on which the license or temporary emergency license was issued, the licensee becomes subject to a civil protection order or to a protection order issued by a court of another state that is substantially equivalent to a civil protection order.

(5) The licensee knowingly carries a concealed handgun into a place that the licensee knows is an unauthorized place specified in R.C. 2923.126(B).³

(6) On or after the date on which the license or temporary emergency license was issued, the licensee is adjudicated as a mental defective or is committed to a mental institution.

(7) At the time of the issuance of the license or temporary emergency license, the licensee did not meet the residency requirements described in paragraph (1) of "**Requirements that an applicant must satisfy to receive a license**" and currently does not meet those residency requirements.

(8) The competency certificate the licensee submitted was forged or otherwise was fraudulent.

The bill. As the bill prohibits an illegal resident from qualifying for a license to carry a concealed handgun, the bill also requires a sheriff to revoke a license if the sheriff learns that the person is not legally in the U.S. (R.C. 2923.128(B)(1)(g)).

In the same manner as the bill provides for issuance of a license, the bill prohibits a sheriff from revoking a license if the sheriff becomes aware that, at the time of the issuance of the license or temporary emergency license, the licensee had been convicted of or pleaded guilty to an offense identified in paragraph (6), (7), or (8) of "**Requirements that an applicant must satisfy to receive a license**" or had been adjudicated a delinquent child for committing an act or violation identified in any of those paragraphs, or that, on or after the date on which the license or temporary emergency license was issued, the licensee has been convicted of or pleaded guilty to using weapons while intoxicated or an offense described in paragraph (6), (7), or (8) of "**Requirements that an applicant must satisfy to receive a license,**" and if a court has ordered the sealing or expungement

³ See COMMENT 1 for an explanation of these prohibited places.

of the records of that conviction, guilty plea, or delinquent child adjudication. (R.C. 2923.128(B)(3).)

Fee for a concealed carry license or renewal license

Under current law, if an applicant for a concealed carry license or renewal license has been a resident of Ohio for five or more years, the fee for the license is an amount that does not exceed the lesser of the actual cost of issuing the license, including, but not limited to, the cost of conducting the criminal records check, or \$45. If an applicant has been a resident of Ohio for less than five years, the fee for the license is an amount that must consist of the actual cost of having a criminal background check performed by the FBI, if performed, plus the lesser of the actual cost of issuing the license, including, but not limited to, the cost of conducting the criminal records check, or \$45. The fee for a temporary emergency license is an amount that does not exceed the actual cost of conducting the criminal background check or \$30. (R.C. 109.731(C)(1) and 2923.1213(B)(1)(c).)

The bill. The bill makes no change to the fee for a temporary emergency license but for a regular license it eliminates the fee distinction based on the number of years a person has been a resident of Ohio and increases the fee for an application made on or after the effective date of the bill. Under the bill, the prescribed fee for a concealed carry license is an amount that consists of the actual cost of having a criminal background check performed by the FBI, if performed, plus the lesser of the actual cost of issuing the license, including, but not limited to, the cost of conducting the criminal records check, or whichever of the following applies (R.C. 109.731(C)(1)(a) and (b)):

- (1) For an application made on or after the effective date of the bill, \$55.
- (2) For an application made prior to the effective date of the bill, \$45.

The offense of carrying concealed weapons

Current law

Continuing law prohibits a person from knowingly carrying or having, concealed on the person's person or concealed ready at hand, any of the following (R.C. 2923.12(A)):⁴

- (1) A deadly weapon other than a handgun;
- (2) A handgun other than a dangerous ordnance;

⁴ See **COMMENT 2** for an additional prohibition.

(3) A dangerous ordnance.

A violation of this prohibition is the offense of "carrying concealed weapons." Generally, carrying concealed weapons in violation of one of these prohibitions is a misdemeanor of the first degree. However, if the offender previously has been convicted of this offense or of any offense of violence, if the weapon involved is a firearm that is either loaded or for which the offender has ammunition ready at hand, or if the weapon involved is dangerous ordnance, the offense is a felony of the fourth degree. If the weapon involved is a firearm and the violation is committed at premises for which a D permit has been issued under R.C. Chapter 4303. or if the offense is committed aboard an aircraft, or with purpose to carry a concealed weapon aboard an aircraft, regardless of the weapon involved, the offense is a felony of the third degree. (R.C. 2923.12(G)(1).)⁵

These prohibitions do not apply to officers, agents, or employees of Ohio or any other state or the United States, or to law enforcement officers, authorized to carry concealed weapons or dangerous ordnance and acting within the scope of their duties. (R.C. 2923.12(B), (C)(1), and (G).)

The bill

The bill adds another exemption to the offense of carrying concealed weapons. Under the bill, the offense does not apply to any person who is subject to and in compliance with the firearms requalification requirements described above in "**Completion of a firearms requalification program,**" unless the appointing authority of the person has expressly specified that the exemption provided under this provision does not apply to the person (R.C. 2923.12(C)(1)).

Exception to the prohibitions against possessing a weapon in a liquor permit premises, school safety zone, and courthouse and firearms offenses while in or on a vessel

Current law

Illegal possession of a firearm in liquor permit premises. Continuing law, unchanged by the bill, prohibits a person from possessing a firearm in any room in which liquor is being dispensed in premises for which a D permit has been issued or in an open air arena for which a permit of that nature has been issued. However, this prohibition does not apply to the following (R.C. 2923.121(B)):

⁵ *If the person is arrested for carrying a concealed handgun and promptly produces a valid license and is not knowingly in a place described in R.C. 2923.126(B) (see COMMENT 1), the officer is prohibited from arresting the person.*

(1) Officers, agents, or employees of Ohio or any other state or the United States, or to law enforcement officers, authorized to carry firearms, and acting within the scope of their duties;

(2) Any room used for the accommodation of hotel guests;

(3) Possession of a rifle by a member of a veteran's organization in any room owned, leased, or otherwise under the control of the veteran's organization, if the rifle is not loaded with live ammunition and if the person is not otherwise prohibited by law from having the rifle;

(4) Any person possessing or displaying firearms in any room used to exhibit firearms for sale or trade in a soldiers' memorial, in a convention center, or in any other public meeting place, if the person is an exhibitor, trader, purchaser, or seller of firearms and is not otherwise prohibited by law from possessing, trading, purchasing, or selling the firearms.

A violation of this prohibition is a felony of the fifth degree (R.C. 2923.121(E)).

Illegal conveyance or possession of a deadly weapon or dangerous ordnance in a school safety zone and illegal possession of an object indistinguishable from a firearm in a school safety zone. Continuing law, unchanged by the bill, prohibits a person from knowingly conveying, attempting to convey, or possessing a deadly weapon or dangerous ordnance in a school safety zone.

Continuing law also prohibits a person from knowingly possessing an object in a school safety zone if both of the following apply (R.C. 2923.122(C)):

(1) The object is indistinguishable from a firearm, whether or not the object is capable of being fired.

(2) The person indicates that the person possesses the object and that it is a firearm, or the person knowingly displays or brandishes the object and indicates that it is a firearm.

These prohibitions do not apply to the following persons (R.C. 2923.122(D)):

(1) To officers, agents, or employees of Ohio or any other state or the United States, or to law enforcement officers, authorized to carry deadly weapons or dangerous ordnance and acting within the scope of their duties, to any security officer employed by a board of education or governing body of a school during the time that the security officer is on duty pursuant to that contract of employment, or

to any other person who has written authorization from the board of education or governing body of a school to convey deadly weapons or dangerous ordnance into a school safety zone or to possess a deadly weapon or dangerous ordnance in a school safety zone and who conveys or possesses the deadly weapon or dangerous ordnance in accordance with that authorization;

(2) To a person who conveys or attempts to convey a handgun into, or possesses a handgun in, a school safety zone if, at the time of that conveyance, attempted conveyance, or possession of the handgun, all of the following apply:

(a) The person does not enter into a school building or onto school premises and is not at a school activity.

(b) The person is carrying a valid license or temporary emergency license to carry a concealed handgun.

(c) The person is in the school safety zone in accordance with 18 U.S.C. 922(q)(2)(B).

(d) The person is not knowingly in a place described in R.C. 2923.126(B)(1) or (B)(3) to (10) (see **COMMENT 1**).

In addition, the prohibition against illegal possession of an object indistinguishable from a firearm in a school safety zone does not apply to premises upon which home schooling is conducted. The prohibition against illegal possession of an object indistinguishable from a firearm also does not apply to a school administrator, teacher, or employee who possesses an object that is indistinguishable from a firearm for legitimate school purposes during the course of employment, a student who uses an object that is indistinguishable from a firearm under the direction of a school administrator, teacher, or employee, or any other person who with the express prior approval of a school administrator possesses an object that is indistinguishable from a firearm for a legitimate purpose, including the use of the object in a ceremonial activity, a play, reenactment, or other dramatic presentation, or a ROTC activity or another similar use of the object. (R.C. 2923.122(D)(2).)

A violation of one of these prohibitions ranges from a misdemeanor of the first degree to a felony of the fourth degree depending on the violation and whether the offender has previously been convicted of one of these violations (R.C. 2923.122(E)).

Illegal conveyance or possession of a deadly weapon or dangerous ordnance in a courthouse. Continuing law prohibits a person from knowingly conveying, attempting to convey, possessing, or having under the person's control

a deadly weapon or dangerous ordnance in a courthouse or another building or structure in which a courthouse is located. This prohibition does not apply to the following persons (R.C. 2923.123(C)):

(1) Unless a rule of superintendence or another type of rule adopted by the Supreme Court or an applicable local rule of court prohibits all persons from conveying or attempting to convey a deadly weapon or dangerous ordnance into a courthouse or into another building or structure in which a courtroom is located or from possessing or having under one's control a deadly weapon or dangerous ordnance in a courthouse or in another building or structure in which a courtroom is located:

(a) A judge of a court of record of this state or a magistrate;

(b) A peace officer, or an officer of a law enforcement agency of another state, a political subdivision of another state, or the United States, who is authorized to carry a deadly weapon or dangerous ordnance, who possesses or has under that individual's control a deadly weapon or dangerous ordnance as a requirement of that individual's duties, and who is acting within the scope of that individual's duties at the time of that possession or control;

(c) A bailiff or deputy bailiff of a court of record of this state who is authorized to carry a firearm, who possesses or has under that individual's control a firearm as a requirement of that individual's duties, and who is acting within the scope of that individual's duties at the time of that possession or control;

(d) A prosecutor, or a secret service officer appointed by a county prosecuting attorney, who is authorized to carry a deadly weapon or dangerous ordnance in the performance of the individual's duties, who possesses or has under that individual's control a deadly weapon or dangerous ordnance as a requirement of that individual's duties, and who is acting within the scope of that individual's duties at the time of that possession or control;

(e) A person who conveys or attempts to convey a handgun into a courthouse or into another building or structure in which a courtroom is located, who, at the time of the conveyance or attempt, is carrying a valid license or temporary emergency license to carry a concealed handgun, and who transfers possession of the handgun to the officer or officer's designee who has charge of the courthouse or building. The officer must secure the handgun until the licensee is prepared to leave the premises. The exemption described in this provision applies only if the officer who has charge of the courthouse or building provides services of the nature described in this provision. An officer who has charge of the courthouse or building is not required to offer services of the nature described in this provision.

(2) A person who conveys, attempts to convey, possesses, or has under the person's control a deadly weapon or dangerous ordnance that is to be used as evidence in a pending criminal or civil action or proceeding.

A violation of this prohibition is a felony of the fifth degree for a first offense and a felony of the fourth degree for a subsequent offense (R.C. 2923.123(D)).

Firearm offenses while in or on a vessel. Continuing law prohibits a person from knowingly discharging a firearm while in or on a vessel or knowingly transporting or having a loaded firearm in a vessel in a manner that the firearm is accessible to the operator or any passenger. Continuing law also prohibits a person from knowingly transporting or having a firearm in a vessel unless it is unloaded and is carried either in a closed package, box, or case or 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 that cannot be stripped, in plain sight. (R.C. 1579.69(C) and (D).)

The bill

The bill specifies that the prohibitions against a person possessing a firearm in a liquor permit premises, school safety zone, or courthouse and against a person discharging, transporting, or having a firearm while in or on a vessel also do not apply to any person who is subject to and in compliance with the firearms requalification requirements described above in "**Completion of a firearms requalification program**" unless the appointing authority of the person has expressly specified that the exemption provided by the bill does not apply to that person (R.C. 1547.69(H), 2923.121(B)(1), 2923.122(D)(1), and 2923.123(C)(6)(b)).

Improperly handling firearms in a motor vehicle

Exemption from the offense

R.C. 2923.16 contains several restrictions with respect to firearms in motor vehicles, all of which are termed the offense of "improperly handling firearms in a motor vehicle." Under continuing law, none of these offenses apply to officers, agents, or employees of Ohio, any other state, the federal government, or to law enforcement officers, when authorized to carry or have loaded or accessible firearms in motor vehicles and acting within the scope of their duties. The bill additionally provides that none of these offenses apply to any person who is subject to and in compliance with the firearms requalification requirements described above in "**Completion of a firearms requalification program**" unless

the appointing authority of the person has expressly specified that the exemption provided by the bill does not apply to that person. (R.C. 2923.16(F)(1).)

Prohibitions applicable to a concealed carry licensee

Continuing law modified by the bill prohibits a concealed carry licensee from, among other prohibitions, doing any of the following when the person has a loaded handgun in a motor vehicle (R.C. 2923.16(E) and (I)):

(1) Knowingly transporting or having a loaded handgun in a motor vehicle unless the loaded handgun either is in a holster *and in plain sight* on the person's person or it is securely encased by being stored in a closed, locked glove compartment or in a case *that is in plain sight* and that is locked (a violation of which is a felony of the fifth degree) (italicized language removed by the bill);

(2) If the person is transporting or has a loaded handgun in a motor vehicle in a manner authorized under paragraph (1), knowingly removing or attempting to remove the loaded handgun from the holster, glove compartment, or case, knowingly grasping or holding the loaded handgun, or knowingly having contact with the loaded handgun by touching it with the person's hands or fingers while the motor vehicle is being operated on a street, highway, or public property unless 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 (a violation of which is a felony of the fifth degree);

(3) If the person is the driver or an occupant of a motor vehicle that is stopped as a result of a traffic stop or a stop for another law enforcement purpose and if the person is transporting or has a loaded handgun in the motor vehicle in any manner, failing to promptly inform any law enforcement officer who approaches the vehicle while stopped that the person has been issued a license or temporary emergency license to carry a concealed handgun and that the person then possesses or has a loaded handgun in the motor vehicle (a violation of which is currently a misdemeanor of the fourth degree but is increased to a misdemeanor of the third degree by the bill);

(4) If the person is the driver or an occupant of a motor vehicle that is stopped as a result of a traffic stop or a stop for another law enforcement purpose and if the person is transporting or has a loaded handgun in the motor vehicle in any manner, knowingly disregarding or failing to comply with any lawful order of any law enforcement officer given while the motor vehicle is stopped, knowingly failing to remain in the motor vehicle while stopped, or knowingly failing to keep the person's hands in plain sight at any time after any law enforcement officer begins approaching the person while stopped and before the law enforcement officer leaves, unless, regarding a failure to remain in the motor vehicle or to keep

the person's hands in plain sight, the failure is pursuant to and in accordance with directions given by a law enforcement officer (a violation of which is a misdemeanor of the first degree or a felony of the fifth degree);

(5) If the person is the driver or an occupant of a motor vehicle that is stopped as a result of a traffic stop or a stop for another law enforcement purpose, if the person is transporting or has a loaded handgun in the motor vehicle in a manner authorized under paragraph (1), and if the person is approached by any law enforcement officer while stopped, knowingly removing or attempting to remove the loaded handgun from the holster, glove compartment, or case, knowingly grasping or holding the loaded handgun, or knowingly having 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, unless the person removes, attempts to remove, grasps, holds, or has contact with the loaded handgun pursuant to and in accordance with directions given by the law enforcement officer (a violation of which is a felony of the fifth degree).

Transporting or possessing a firearm in a motor vehicle

The offense of improperly handling firearms in a motor vehicle is also committed in the following manners under current law (R.C. 2923.16(B) and (C)):

(1) A person knowingly transports or has 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.

(2) A person knowingly transports or has a firearm in a motor vehicle, unless it is unloaded and 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;

(d) 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.

Under current law, these two prohibitions do not apply to a person who transports or possesses a handgun in a motor vehicle if, at the time of that transportation or possession, all of the following apply (R.C. 2923.16(F)(4)):

(1) The person transporting or possessing the handgun is carrying a valid license or temporary emergency license to carry a concealed handgun;

(2) The person is not knowingly in a place described in R.C. 2923.126(B) (see **COMMENT 1**);

(3) Either the handgun is in a holster *and in plain sight* on the person's person or the handgun is securely encased by being stored in a closed, locked glove compartment or in a case that is in *plain sight* and that is locked.

The bill removes the italicized requirement that the handgun be in plain sight or in a locked case that is in plain sight in order for the exemption to the offense to apply (R.C. 2923.16(F)(4)(c)).

Transporting or possessing a loaded handgun while under the influence

Current law prohibits a person from knowingly transporting or possessing a loaded handgun in a motor vehicle if, at the time of the transportation or possession, the person is (1) under the influence of alcohol, a drug of abuse, or a combination of them, or (2) is in violation of state OVI, regardless of whether the person at the time of the transportation or possession is the operator of or a passenger in the motor vehicle. A violation of this prohibition, currently, is a felony of the fifth degree.

The bill increases the penalty for this offense to a felony of the fourth degree if the loaded handgun is concealed on the person's person. The bill also specifies that this prohibition does not apply if the person with the prohibited concentration of alcohol or under the influence of alcohol, a drug of abuse, or a combination of them has surrendered possession or control of the handgun to a person who is not under the influence of alcohol or a drug of abuse and who otherwise permissibly transports or possesses the handgun in a motor vehicle. (R.C. 2923.16(D), (F)(5), and (I).)

Exemption from the offense

Current law provides that none of the offenses described above in "**Prohibitions applicable to a concealed carry licensee**," "**Transporting or possessing a firearm in a motor vehicle**," "**Transporting or possessing a loaded handgun while under the influence**," and the offense of knowingly discharging a firearm while in or on a motor vehicle apply to officers, agents, or employees of Ohio, any other state, the federal government, or to law enforcement officers, when authorized to carry or have loaded or accessible firearms in motor vehicles and acting within the scope of their duties.

The bill modifies this exemption to instead provide that only the offense of knowingly discharging a firearm while in or on a motor vehicle and the offenses described above in "Prohibitions applicable to a concealed carry licensee" and "Transporting or possessing a firearm in a motor vehicle" do not apply to these officers, agents, or employees. Officers, agents, and employees are subject to the prohibition against transporting or possessing a loaded handgun while under the influence, as described above in "Transporting or possessing a loaded handgun while under the influence." In addition, the bill provides that these prohibitions, except for the prohibition against transporting or possessing a loaded handgun while under the influence, do not apply to any person who is subject to and in compliance with the firearms requalification requirements described above in "Completion of a firearms requalification program" unless the appointing authority of the person has expressly specified that the exemption provided by the bill does not apply to that person. (R.C. 2923.16(F)(1).)

COMMENT

1. R.C. 2923.126(B) provides that a valid license to carry a concealed handgun does not authorize the licensee to carry a concealed handgun in any manner prohibited under R.C. 2923.12(B) or in any manner prohibited under R.C. 2923.16. Also, a valid license does not authorize the licensee to carry a concealed handgun into any of the following places:

(1) A police station, sheriff's office, or state highway patrol station, premises controlled by BCII, a state correctional institution, jail, workhouse, or other detention facility, an airport passenger terminal, or an institution that is maintained, operated, managed, and governed pursuant to R.C. 5119.02(A) or R.C. 5123.03(A)(1);

(2) A school safety zone;

(3) A courthouse or another building or structure in which a courtroom is located;

(4) Any room or open air arena in which liquor is being dispensed in premises for which a D permit has been issued;

(5) Any premises owned or leased by any public or private college, university, or other institution of higher education, unless the handgun is in a locked motor vehicle or the licensee is in the immediate process of placing the handgun in a locked motor vehicle;

(6) Any church, synagogue, mosque, or other place of worship, unless the church, synagogue, mosque, or other place of worship posts or permits otherwise;



(7) A child day-care center, a type A family day-care home, a type B family day-care home, or a type C family day-care home, except that this prohibition does not prohibit a licensee who resides in a type A family day-care home, a type B family day-care home, or a type C family day-care home from carrying a concealed handgun at any time in any part of the home that is not dedicated or used for day-care purposes, or from carrying a concealed handgun in a part of the home that is dedicated or used for day-care purposes at any time during which no children, other than children of that licensee, are in the home;

(8) An aircraft that is in, or intended for operation in, foreign air transportation, interstate air transportation, intrastate air transportation, or the transportation of mail by aircraft;

(9) Any building that is owned by Ohio or any political subdivision of Ohio, and all portions of any building that is not owned by any of these governmental entities but that is leased by such a governmental entity;

(10) A place in which federal law prohibits the carrying of handguns.

2. Continuing law also prohibits a person who has been issued a license or temporary emergency license to carry a concealed handgun, as described above in "*The Concealed Carry Licensing Law*," 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, who is stopped for a law enforcement purpose, and who is carrying a concealed handgun from failing to promptly inform any law enforcement officer who approaches the person after the person has been stopped that the person has been issued a license or temporary emergency license to carry a concealed handgun and that the person then is carrying a concealed handgun. A violation of this prohibition is a misdemeanor of the fourth degree. (R.C. 2923.12(B) and (G)(3).)

HISTORY

ACTION	DATE
Introduced	09-20-05
Reported, H. Criminal Justice	---

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