



H.B. 225

127th General Assembly
(As Introduced)

**Reps. Adams, Brinkman, Seitz, Bulp, Fessler, Wachtmann, Huffman,
Uecker, Goodwin**

BILL SUMMARY

- Makes the prohibitions against knowingly discharging a firearm while in or on a vessel or while in or on a motor vehicle inapplicable to a person who discharges a firearm in self-defense.
- Eliminates the requirement that a person who is licensed to carry a concealed handgun have the license on his or her person while in actual possession of a concealed handgun.
- Allows a person to carry a concealed handgun without a license if the person is legally permitted to purchase a firearm, would meet the requirements for a license to carry a concealed handgun if the person applied for a license, and is not in a place where a concealed handgun is prohibited and subjects such a person to the same restrictions as a person with a license to carry a concealed handgun.
- Exempts a person from the prohibitions against knowingly transporting or having a loaded firearm in a motor vehicle or vessel unless it is made inaccessible and against knowingly transporting or having an unloaded firearm in a motor vehicle or vessel unless it is stripped or secured in a specified manner if the person has but is not carrying a valid license to carry a concealed handgun or is legally permitted to purchase a firearm, would meet the requirements for a license to carry a concealed handgun if the person applied for a license, and is not in a place where a concealed handgun is prohibited.
- Extends the exemptions from the prohibitions against knowingly having a deadly weapon or dangerous ordnance in or conveying a deadly weapon or dangerous ordnance into a school safety zone, a courthouse, or a building with a courtroom to a person who has but is not carrying a

valid license to carry a concealed handgun or who is legally permitted to purchase a firearm and would meet the requirements for a license to carry a concealed handgun if the person applied for a license.

- Extends the exemption from the general prohibition against carrying a concealed handgun other than a dangerous ordnance to a person who has but is not carrying a valid license to carry a concealed handgun or who is legally permitted to purchase a firearm, would meet the requirements for a license to carry a concealed handgun if the person applied for a license, and is not in a place where concealed handguns are prohibited.
- Eliminates the reduced penalty for carrying concealed weapons that applied to a person whose license to carry a concealed handgun expired within two years of the offense if the offender obtained such a license within 45 days of the offense.
- Eliminates the requirement that a person who is licensed to carry a concealed handgun disclose to a police officer who stops for a law enforcement purpose the person or a vehicle in which the person is a driver or occupant that the person is licensed and currently possesses or has a loaded handgun.
- Eliminates the requirement that a person who is licensed to carry a concealed handgun keep the person's hands in plain sight when approached by a law enforcement officer and eliminates the prohibitions against a concealed carry license holder removing a handgun from the place where it is being kept, touching the handgun, or failing to comply with an officer's lawful order when approached by a law enforcement officer and instead prohibits a person who has or is eligible for a license to carry a concealed handgun, is the driver or occupant of a motor vehicle that has been stopped for a law enforcement purpose, and has or is transporting a loaded handgun from knowingly brandishing the loaded handgun at the officer in a menacing manner, threatening the officer with it, pointing it at the officer, or otherwise causing the officer to believe the person will harm the officer with it.
- Eliminates the requirement that a person licensed to carry a concealed handgun renew the person's competency certification when renewing the license.
- Eliminates the requirement that a sheriff, upon request by a journalist, permit the viewing by the journalist of the name, county of residence, and

date of birth of concealed handgun licensees or persons whose licenses have been suspended or revoked.

- Eliminates the restrictions on and prohibitions against the carrying of a concealed handgun by a person licensed to carry a concealed handgun into institutions of higher education, places of worship, child day-care centers and family day-care homes, and state and local public buildings.
- Eliminates the requirement that child day-care centers, type A, B, and C family day-care homes, and buildings owned or leased by a governmental entity have signs stating that no person may possess or control deadly weapons or dangerous ordnance on the premises.

TABLE OF CONTENTS

Terms used in this analysis.....	4
Reciprocity license	4
Certification requirement.....	4
Eligible person.....	4
Prohibited place	4
Elimination of requirement that person licensed to carry concealed handgun carry license while possessing concealed handgun.....	5
Carrying of concealed handguns by persons without license but eligible for license	5
Changes to Concealed Carry License Law.....	5
License renewals.....	5
Confidentiality of license-related information	6
Places where possession of handguns by licensees is prohibited.....	7
Posting of signs.....	8
Self-defense as a defense to discharging a firearm in or on a vessel or motor vehicle.....	8
Issuance of or eligibility for a license as a defense to violations of the prohibitions against possessing, conveying, or using concealed deadly weapons, dangerous ordnance, firearms, or handguns in various premises or vehicles	9
Transporting or having a loaded firearm in a vessel or motor vehicle.....	9
Deadly weapons in school safety zones	10
Deadly weapons in courthouses	11
Carrying concealed handguns.....	12
Disclosure of concealed handgun to police and conduct by concealed carry licensees during stop.....	12
Brandishing a handgun in a motor vehicle	14

CONTENT AND OPERATION

Terms used in this analysis

Reciprocity license

The current concealed carry law prohibits a person from carrying a concealed handgun without a license to do so. There are three types of licenses: a regular license, a temporary emergency license, and a license issued by another state with which Ohio has a reciprocity agreement. In this analysis, the third type of license is referred to as a "reciprocity license."

Certification requirement

To obtain a concealed carry license under current law, an applicant must be legally permitted to purchase a firearm and meet age, residency, and other specified requirements. The requirements include submission to the sheriff of one of several types of certifications of competency in the safe use of firearms and a certification that the applicant has read the pamphlet on the lawful use of firearms prepared by the Ohio Peace Office Training Commission. (See **COMMENT 1**.) In this analysis, the requirement that an applicant submit these certifications is referred to as the certification requirement.

Eligible person

As explained in this analysis, current law prohibits various acts involving concealed handguns and then exempts persons licensed to carry a concealed handgun from the prohibitions under specified circumstances. The bill extends some of these prohibitions to a person who is not licensed to carry a concealed handgun but who is eligible for a license (that is, a person who is legally permitted to purchase a firearm under state and federal law and would meet the residency and other requirements to obtain a concealed carry license if the person had applied for a license). In this analysis, such a person is referred to as an "eligible person" or a "person who is eligible for a license." Wherever the bill exempts an eligible person from a prohibition, it states that the certification requirement is satisfied if the person has the competency certification and has read the pamphlet, regardless of whether the person has actually submitted the certifications to the sheriff.

Prohibited place

Current law prohibits a person with a concealed carry license from carrying a concealed handgun into certain premises, such as a school safety zone or a building in which a courtroom is located. This analysis refers to such places as a

"prohibited place." See "*Places where possession of handguns by licensees is prohibited*," below.

Elimination of requirement that person licensed to carry concealed handgun carry license while possessing concealed handgun

Current law authorizes a person who has a valid license or temporary emergency license to carry a concealed handgun (hereafter "concealed carry license") to carry a concealed handgun anywhere in the state, except for prohibited places, if the person carries the valid license and valid identification while in actual possession of a concealed handgun. Under the bill, a person licensed to carry a concealed handgun no longer is required to carry the license while carrying a concealed handgun. (R.C. 2923.126(A)(1).)

Carrying of concealed handguns by persons without license but eligible for license

Under current law, only persons with a valid concealed carry license are authorized to carry concealed handguns. Under the bill, a person who is legally permitted to purchase a firearm under state and federal laws and who would meet all the requirements for a concealed carry license if the person had submitted an application for such a license may carry a concealed handgun anywhere in Ohio in the same manner and to the same extent as if the person had been issued a concealed carry license (eligible person). The restrictions upon carrying a concealed handgun that apply to persons with concealed carry licenses also apply to persons authorized to carry concealed handguns under this provision. For purposes of these provisions, a person meets the requirement for submission of a competency certification and a certification of having read the pamphlet on the lawful use of firearms if the person has such a competency certification and has read the pamphlet regardless of whether the person submitted either certification to another person. (R.C. 2923.126(A)(2).)

Changes to Concealed Carry License Law

License renewals

Current law requires a person who applies for renewal of a concealed carry license to submit a competency certification (see **COMMENT 1**) that is not more than six years old. The bill eliminates the requirement for an updated competency certification when a person applies for the renewal of a concealed carry license. (R.C. 2923.125(F).) It also eliminates other references in the Revised Code to and procedures for obtaining renewal competency certifications, including the statutory grant to competency instructors of immunity from civil liability for death or injury or loss to person or property caused by the person to whom the certificate

was issued (R.C. 2923.125(G)(4) and 2923.129(A)(4) and the future version of R.C. 2923.129(A)(4) in Section 3).

Confidentiality of license-related information

Current law provides, with one exception, that records related to the issuance, renewal, suspension, or revocation of concealed carry licenses are confidential and are not public records. Except for the one exception, it prohibits any person from releasing or otherwise disseminating the confidential records unless required to do so by court order. A violation of the prohibition against disclosure of confidential information is a felony of the fifth degree. In addition, if the offender is a sheriff, an employee of a sheriff, or any other public officer or employee, and if the violation was willful and deliberate, the offender is subject to a civil fine of \$1,000. A person harmed by a violation may sue the offender for damages that proximately result from the violation and court costs and attorney's fees related to the civil action to recover the damages. (R.C. 2923.129(B) and (E) and future version of R.C. 2923.129(B) and (E) in Section 3.) (See **COMMENT 3**.)

However, under current law there is a journalist exception to this confidentiality requirement. Effective on and after September 29, 2007, a journalist may submit to a sheriff a signed, written request to view the name, county of residence, and date of birth of each person to whom the sheriff has issued a license or replacement license to carry a concealed handgun, renewed a license to carry a concealed handgun, or issued a temporary emergency license or replacement temporary emergency license to carry a concealed handgun or a signed, written request to view the name, county of residence, and date of birth of each person for whom the sheriff has suspended or revoked a license to carry a concealed handgun. If a journalist submits such a request, the sheriff must grant the request; however, the journalist may not copy the name, county of residence, or date of birth of each person to or for whom the sheriff has issued, suspended, or revoked a concealed carry license.

The request must include the journalist's name and title and the name and address of the journalist's employer and must state that disclosure of the information sought would be in the public interest. For purposes of the confidentiality exception, "journalist" means a person engaged in, connected with, or employed by any news medium, including a newspaper, magazine, press association, news agency, or wire service, a radio or television station, or a similar medium, for the purpose of gathering, processing, transmitting, compiling, editing, or disseminating information for the general public. (R.C. 2923.129(B)(2) and Section 3.)

The bill eliminates the confidentiality exception for journalists and the ability of journalists to view the name, county of residence, and date of birth of licensees (R.C. 2923.129(B) and future version of R.C. 2923.129(B) in Section 3).

Places where possession of handguns by licensees is prohibited

Current law. Current law provides that a concealed carry license does not authorize a person to carry a concealed handgun into any of the following places (R.C. 2923.126(B)):

(1) A police station, sheriff's office, or state highway patrol station, premises controlled by the Bureau of Criminal Identification and Investigation, a state correctional institution, jail, workhouse, or other detention facility, an airport passenger terminal, or an institution that is maintained, operated, managed, and governed by the Department of Mental Health pursuant to R.C. 5119.02(A) or by the Department of Mental Retardation and Developmental Disabilities pursuant to R.C. 5123.03(A)(1);

(2) A school safety zone in violation of R.C. 2923.122;

(3) A courthouse or another building or structure in which a courtroom is located in violation of R.C. 2923.123;

(4) Any room or open air arena in which liquor is being dispensed in premises for which a D permit has been issued under R.C. Chapter 4303. in violation of R.C. 2923.121;

(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 provision 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 the state or any political subdivision of the state, and all portions of any building that is not owned by any governmental entity listed in this division but that is leased by such a governmental entity listed in this division;

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

Operation of the bill. The bill removes categories five, six, seven, and nine from the above list of prohibited places. Therefore, a person with a concealed carry license is not prohibited under the bill from carrying a concealed handgun into premises owned or leased by institutions of higher education, places of worship, child day-care centers and type A, B, and C family day-care homes, or buildings owned or leased by state or local governmental entities. (R.C. 2923.126(B), 2923.124(L) and (M), and 2923.128(A)(2).)

Posting of signs

Current law requires that certain persons and entities, such as jails, courthouses, and airport facilities, post a sign stating: "Unless otherwise authorized by law, pursuant to the Ohio Revised Code, no person shall knowingly possess, have under the person's control, convey, or attempt to convey a deadly weapon or dangerous ordnance onto these premises." The bill eliminates the requirement that the signs be posted by the owner, administrator, or operator of a child day-care center or type A, B, or C family day-care home or by the state or local officer, or designee, in charge of a building owned by the state or a local government or of a portion of a building leased by the state or a local government. (R.C. 2923.1212(A)(8) and (9).)

Self-defense as a defense to discharging a firearm in or on a vessel or motor vehicle

Current law prohibits a person from knowingly discharging a firearm while in or on a vessel (R.C. 1547.69(B)) or while in or on a motor vehicle (R.C. 2923.16(A)). The bill makes the prohibitions inapplicable to a person who discharges a firearm in self-defense while in or on a vessel (R.C. 1547.69(H)(2)) or while in or on a motor vehicle (R.C. 2923.16(F)(3)). Under current law, unchanged by the bill, a violation of R.C. 1547.69(B) is a misdemeanor of the fourth degree (R.C. 1547.99, not in the bill), and a violation of R.C. 2923.16(A) is a felony of the fourth degree (R.C. 2923.16(I)).

Issuance of or eligibility for a license as a defense to violations of the prohibitions against possessing, conveying, or using concealed deadly weapons, dangerous ordnance, firearms, or handguns in various premises or vehicles

Transporting or having a loaded firearm in a vessel or motor vehicle

Current law prohibits a person from knowingly doing any of the following:

(1) Transporting or having a loaded firearm in a vessel (R.C. 1547.69(C)) or in a motor vehicle (R.C. 2923.16(B)) in a manner that makes the firearm accessible to the operator or any passenger in the vessel or to the operator or any passenger in the motor vehicle without leaving the vehicle;

(2) Transporting or having a firearm in a vessel unless it is unloaded and carried in a closed package, box, or case, in plain sight with the action open or the weapon stripped, or, if the action will not stay open or the firearm cannot easily be stripped, in plain sight (R.C. 1547.69(D));

(3) Transporting or having a firearm in a motor vehicle unless it is unloaded and carried in one of the following ways: in a closed package, box, or case; in a compartment that can be reached only by leaving the vehicle; in plain sight and secured in a rack or holder made for the purpose; or in plain sight with the action open or the weapon stripped or, if the action will not stay open or the firearm cannot easily be stripped, in plain sight (R.C. 2923.16(C)).

The above prohibitions do not apply to a person who at the time of transporting or having a handgun (1) is carrying a valid license, temporary emergency license, or reciprocity license to carry a concealed handgun (vessel or motor vehicle), (2) is not knowingly in a prohibited place (vessel or motor vehicle), and (3) has the handgun in a holster on the person's, person has the handgun in a closed case, bag, box, or other container that is in plain sight and that has a lid, cover, or closing mechanism with a zipper, snap, or buckle, which closing mechanism must be opened for a person to gain access to the handgun, or has the handgun securely encased in a closed, locked glove compartment or in a case that is locked (motor vehicle only). (R.C. 1547.69(H) and 2923.16(F)(4).)

The bill retains the above prohibitions, but it modifies the exceptions to the prohibitions and makes them inapplicable to a person who has been issued a license, temporary emergency license, or reciprocity license to carry a concealed handgun; whose license or temporary emergency license is valid at the time of the alleged offense, regardless of whether the person is carrying the license at the time of the alleged offense; and who is not in a prohibited place (R.C. 1547.69(H)(3)(a) and 2923.16(F)(5)(a)). The bill also makes the prohibitions inapplicable to an eligible person (see "***Terms used in this analysis***," above) who is not knowingly in a prohibited place. (R.C. 1547.69(H)(3)(b) and 2923.16(F)(5)(b).)

Under current law, a violation of the prohibition against knowingly transporting or having a loaded firearm in a motor vehicle in a manner that makes the firearm accessible to the operator or any passenger in the motor vehicle without leaving the vehicle (R.C. 2923.16(B)) generally is a felony of the fourth degree. It is a misdemeanor of the first degree if the offender was carrying a valid license or temporary emergency license to carry a concealed handgun or a license to carry a concealed handgun that was issued by another state with which Ohio has a reciprocity agreement, was not knowingly in a prohibited place at the time of the offense, and has not previously been convicted of or pleaded guilty to a violation of the prohibition.

Under the bill, a violation of this prohibition is a felony of the fourth degree in all cases. (R.C. 2923.16(I).)

A violation of R.C. 1547.69(C), 1547.69(D), or 2923.16(C), under both current law and the bill, is a misdemeanor of the fourth degree.

Deadly weapons in school safety zones

Current law prohibits a person (1) from knowingly conveying, or attempting to convey, a deadly weapon or dangerous ordnance into a school safety zone, (2) from knowingly possessing a deadly weapon or dangerous ordnance in a school safety zone, or (3) from knowingly possessing an object in a school safety zone that is indistinguishable from a firearm, whether capable of being fired or not, if the person possesses, displays, or brandishes it and indicates it is a firearm. (R.C. 2923.122(A), (B), and (C).) The prohibitions do not apply 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 (R.C. 2923.122(D)(3)):

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

(2) The person is carrying a valid license or temporary emergency license to carry a concealed handgun issued to the person or a license to carry a concealed handgun that was issued by another state with which Ohio has a reciprocity agreement.

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

(4) The person is not knowingly in a prohibited place.

The bill retains the first, third, and fourth conditions listed above for exemption from the prohibitions. The bill relaxes the second condition to include a person who has been issued a license, temporary emergency license, or

reciprocity license and whose license or temporary emergency license is valid at the time of the alleged offense, regardless of whether the person is carrying the license at the time, and expands the second condition to also include an eligible person (see "*Terms used in this analysis*," above). (R.C. 2923.122(D)(3)(b).)

Under current law and under the bill, a violation of either of the first two prohibitions is a felony of the fifth degree on a first offense and a felony of the fourth degree on a second or subsequent offense, and a violation of the third prohibition is a misdemeanor of the first degree on a first offense and a felony of the fifth degree on a second or subsequent offense (R.C. 2923.122(E)).

Deadly weapons in courthouses

Current law prohibits a person from (1) knowingly conveying or attempting to convey a deadly weapon or dangerous ordnance into a courthouse or a building in which a courtroom is located and (2) from knowingly possessing or having under the person's control a deadly weapon or dangerous ordnance in a courthouse or a building in which a courtroom is located. The prohibitions do not apply to a person who, at the time of the conveyance or attempt, is carrying a valid license, temporary emergency license, or reciprocity license and who transfers possession of the handgun to the officer who has charge of the courthouse or courtroom or to the officer's designee. The exemption is available only if the officer provides the service of taking possession of and securing handguns. (R.C. 2923.123(A), (B), and (C)(6).)

The bill expands the exemption from the above prohibitions to apply to a person who conveys or attempts to convey a handgun into a courthouse or building or structure in which a courtroom is located, who transfers the handgun to the officer or designee who has charge of the courthouse or building, and to whom either of the following applies (R.C. 2923.123(C)(6)(a)):

(1) The person has been issued a license, temporary emergency license, or reciprocity license to carry a concealed handgun and the license is valid at the time of the conveyance or attempted conveyance, regardless of whether the person is carrying the license at the time.

(2) The person is an eligible person (see "*Terms used in this analysis*," above).

The bill retains the requirement that the handgun be transferred to the officer who has charge of the courthouse or courtroom or to the officer's designee. The exemption remains available only if the officer provides the service of taking possession of and securing handguns. (R.C. 2923.123(C)(6)(b).)

Under current law and under the bill, a violation of either prohibition is a felony of the fifth degree on a first offense and a felony of the fourth degree on a second or subsequent offense (R.C. 2923.123(D)).

Carrying concealed handguns

Current law prohibits a person from knowingly carrying a handgun other than a dangerous ordnance concealed on the person's person or concealed ready at hand (one of three ways of committing the offense of "carrying concealed weapons"). Current law exempts from this prohibition a person who is carrying a valid license, temporary emergency license, or reciprocity license to carry a concealed handgun and is not knowingly in a prohibited place. (R.C. 2923.12(A)(2) and (C)(2).)

The bill extends the exemption to apply to a person who has been issued a license, temporary emergency license, or reciprocity license to carry a concealed handgun; whose license or temporary emergency license is valid at the time of the alleged offense, regardless of whether the person is carrying the license at the time of the alleged offense; and who is not knowingly in a prohibited place (see "**Terms used in this analysis**," above). The bill also makes the prohibitions inapplicable to a person who, at the time of the alleged offense, is an eligible person (see "**Terms used in this analysis**," above) and is not knowingly in a prohibited place. (R.C. 2923.12(B)(2)(a) and (b).)

Current law has special penalty provisions for concealed carry licensees who violate this prohibition. Because the prohibition under the bill does not apply to concealed carry licensees, the bill removes these special penalty provisions (R.C. 2923.12(G)(2) of current law).

Disclosure of concealed handgun to police and conduct by concealed carry licensees during stop

Under current law, a person who has been issued a license or temporary emergency license to carry a concealed handgun and who is the driver or occupant of a motor vehicle that is stopped as a result of a traffic stop or for another law enforcement purpose must, if the person is transporting or has a loaded handgun in the vehicle, inform a law enforcement officer who approaches the stopped vehicle that the person has been issued such a license and has a loaded handgun in the vehicle. The licensee must comply with an officer's lawful orders, remain in the vehicle, and keep his or her hands in plain sight as the officer approaches the stopped vehicle and before the officer leaves, unless the officer directs otherwise. The licensee may not knowingly "remove, attempt to remove, grasp, or hold" the loaded handgun or have hand or finger contact with it as an officer approaches or before the officer leaves the vehicle.

Any other concealed handgun licensee who is carrying a concealed handgun and is stopped for a law enforcement purpose must also promptly inform an officer who approaches that he or she has been issued such a license and is carrying a concealed handgun. This statutory provision sets forth the duties of licensees, but it does not establish criminal penalties for its violation. (R.C. 2923.126(A).)

The bill eliminates all of the above provisions.

Other provisions of current law require any person who has been issued a license, temporary emergency license, or reciprocity license to carry a concealed handgun, is carrying a concealed handgun, and is stopped for a law enforcement purpose to promptly inform any law enforcement officer who approaches that the person has been issued such a license and is carrying a concealed handgun and to keep the person's hands in plain sight, prohibit the person from removing the handgun from where it is being carried or from touching the handgun, and prohibit the person from failing to comply with an officer's lawful order. A violation of these provisions is either a misdemeanor of the first degree or a felony of the fifth degree.

The bill eliminates these requirements and their penalties. (R.C. 2923.12(B) and (G)(3), (4), and (5), conforming changes in R.C. 2923.126(B) and 2923.128(A)(2).)

A third provision of current law (1) prohibits a person who has been issued a license or temporary license to carry a concealed handgun from knowingly transporting or having a loaded firearm in a motor vehicle unless it is in a holster on the person's person, in a closed case, bag, box, or other container that is in plain sight and that has a lid, cover, or a closing mechanism with a zipper, snap, or buckle, which closing mechanism must be opened for a person to gain access to the handgun, or is securely encased by being in a closed, locked glove compartment or in a case that is locked, (2) prohibits (in two places) a person who has been issued a license or temporary emergency license to carry a concealed handgun and who is lawfully transporting or has a loaded handgun in a motor vehicle from 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 does the act pursuant to and in accordance with directions given by a law enforcement officer (one prohibition is general, and one applies specifically when the person is approached by a law enforcement officer), (3) prohibits a person who has been issued a license or temporary emergency license to carry a concealed handgun and who 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 who is transporting

or has a loaded handgun in the motor vehicle in any manner from 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, and (4) prohibits a person who has been issued a license or temporary emergency license to carry a concealed handgun, who 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 who is transporting or has a loaded handgun in the motor vehicle in any manner from knowingly disregarding or failing to comply with any lawful order of any law enforcement officer given while the vehicle is stopped, knowingly failing to remain in the motor vehicle while stopped, or knowingly failing to keep his or her 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 directions given by a law enforcement officer. (R.C. 2923.16(E)(1), (2), (3), (4), and (5).) A violation of the first or second prohibition is a felony of the fifth degree; a violation of the third prohibition is a misdemeanor of the first degree; and a violation of the fourth prohibition is a misdemeanor of the first degree or, for a repeat offender, a felony of the fifth degree (R.C. 2923.16(I)).

The bill eliminates all of the foregoing provisions (R.C. 2923.16(E)(1), (2), (3), (4), and (5) and (I)).

Brandishing a handgun in a motor vehicle

The bill contains a new prohibition against brandishing a handgun in a menacing manner at a law enforcement officer. The prohibition applies to a driver or occupant of a motor vehicle that is stopped as a result of a traffic stop or a stop for another law enforcement purpose, is transporting or has a loaded handgun in the motor vehicle, and is either a person who has been issued a license or temporary emergency license to carry a concealed handgun or a person who, at the time of transporting or possessing a handgun in a motor vehicle, is an eligible person.

The bill prohibits persons described in the preceding paragraph, while stopped, from knowingly brandishing the loaded handgun in a menacing manner while a law enforcement officer is approaching the vehicle or in a law enforcement officer's presence, knowingly threatening a law enforcement officer with the loaded handgun, knowingly pointing the loaded handgun at a law enforcement officer, or otherwise knowingly causing a law enforcement officer to believe that the person will cause or attempt to cause physical harm to a law enforcement officer with the handgun, unless the person engages in the conduct in accordance with directions given by the law enforcement officer. Under the bill, a

first violation of this new prohibition is a misdemeanor of the first degree, and a second or subsequent violation is a felony of the fourth degree. (R.C. 2923.16(E) and (I).)

COMMENT

1. Under current law, unchanged by the bill, an applicant for a license to carry a concealed handgun must submit to the sheriff a certification of competency in the handling of a firearm and a certification that the applicant has read the pamphlet on the lawful use of firearms prepared by the Ohio Peace Office Training Commission. R.C. 2923.125(B)(3) lists the acceptable competency certifications as follows:

(3) One or more of the following competency certifications, each of which shall reflect that, regarding a certification described in division (B)(3)(a), (b), (c), (e), or (f) of this section, within the three years immediately preceding the application the applicant has performed that to which the competency certification relates and that, regarding a certification described in division (B)(3)(d) of this section, the applicant currently is an active or reserve member of the armed forces of the United States or within the six years immediately preceding the application the honorable discharge or retirement to which the competency certification relates occurred:

(a) An original or photocopy of a certificate of completion of a firearms safety, training, or requalification or firearms safety instructor course, class, or program that was offered by or under the auspices of the national rifle association and that complies with the requirements set forth in division (G) of this section;

(b) An original or photocopy of a certificate of completion of a firearms safety, training, or requalification or firearms safety instructor course, class, or program that satisfies all of the following criteria:

(i) It was open to members of the general public.

(ii) It utilized qualified instructors who were certified by the national rifle association, the executive director of the Ohio peace officer training commission pursuant to section 109.75 or 109.78 of the Revised Code, or a governmental official or entity of another state.

(iii) It was offered by or under the auspices of a law enforcement agency of this or another state or the United States, a public or private college, university, or other similar postsecondary educational institution located in this or another state, a firearms training school located in this or another state, or another type of public or private entity or organization located in this or another state.

(iv) It complies with the requirements set forth in division (G) of this section.

(c) An original or photocopy of a certificate of completion of a state, county, municipal, or department of natural resources peace officer training school that is approved by the executive director of the Ohio peace officer training commission pursuant to section 109.75 of the Revised Code and that complies with the requirements set forth in division (G) of this section, or the applicant has satisfactorily completed and been issued a certificate of completion of a basic firearms training program, a firearms requalification training program, or another basic training program described in section 109.78 or 109.801 of the Revised Code that complies with the requirements set forth in division (G) of this section;

(d) A document that evidences both of the following:

(i) That the applicant is an active or reserve member of the armed forces of the United States, was honorably discharged from military service in the active or reserve armed forces of the United States, is a retired trooper of the state highway patrol, or is a retired peace officer or federal law enforcement officer described in division (B)(1) of this section or a retired person described in division (B)(1)(b) of section

109.77 of the Revised Code and division (B)(1) of this section;

(ii) That, through participation in the military service or through the former employment described in division (B)(3)(d)(i) of this section, the applicant acquired experience with handling handguns or other firearms, and the experience so acquired was equivalent to training that the applicant could have acquired in a course, class, or program described in division (B)(3)(a), (b), or (c) of this section.

(e) A certificate or another similar document that evidences satisfactory completion of a firearms training, safety, or requalification or firearms safety instructor course, class, or program that is not otherwise described in division (B)(3)(a), (b), (c), or (d) of this section, that was conducted by an instructor who was certified by an official or entity of the government of this or another state or the United States or by the national rifle association, and that complies with the requirements set forth in division (G) of this section;

(f) An affidavit that attests to the applicant's satisfactory completion of a course, class, or program described in division (B)(3)(a), (b), (c), or (e) of this section and that is subscribed by the applicant's instructor or an authorized representative of the entity that offered the course, class, or program or under whose auspices the course, class, or program was offered.

Current R.C. 109.731(B)(1), also unchanged by the bill, directs the Peace Officer Training Commission to prepare a pamphlet on the use of firearms as follows:

(B)(1) The Ohio peace officer training commission, in consultation with the attorney general, shall prepare a pamphlet that does all of the following, in everyday language:

(a) Explains the firearms laws of this state;

(b) Instructs the reader in dispute resolution and explains the laws of this state related to that matter;

(c) Provides information to the reader regarding all aspects of the use of deadly force with a firearm, including, but not limited to, the steps that should be taken before contemplating the use of, or using, deadly force with a firearm, possible alternatives to using deadly force with a firearm, and the law governing the use of deadly force with a firearm.

2. Federal law (18 U.S.C. 922(q)(2)(A)) restricts the possession of a firearm in a school zone as follows:

It shall be unlawful for any individual knowingly to possess a firearm that has moved in or that otherwise affects interstate or foreign commerce at a place that the individual knows, or has reasonable cause to believe, is a school zone.

(B) Subparagraph (A) does not apply to the possession of a firearm—

(i) on private property not part of school grounds;

(ii) if the individual possessing the firearm is licensed to do so by the State in which the school zone is located or a political subdivision of the State, and the law of the State or political subdivision requires that, before an individual obtains such a license, the law enforcement authorities of the State or political subdivision verify that the individual is qualified under law to receive the license;

(iii) that is—

(I) not loaded; and

(II) in a locked container, or a locked firearms rack that is on a motor vehicle;

(iv) by an individual for use in a program approved by a school in the school zone;

(v) by an individual in accordance with a contract entered into between a school in the school zone and the individual or an employer of the individual;

(vi) by a law enforcement officer acting in his or her official capacity; or

(vii) that is unloaded and is possessed by an individual while traversing school premises for the purpose of gaining access to public or private lands open to hunting, if the entry on school premises is authorized by school authorities.

In addition to the state and federal prohibitions on having firearms on certain premises, R.C. 2923.126(C)(1) states:

Nothing in this section shall negate or restrict a rule, policy, or practice of a private employer that is not a private college, university, or other institution of higher education concerning or prohibiting the presence of firearms on the private employer's premises or property, including motor vehicles owned by the private employer. Nothing in this section shall require a private employer of that nature to adopt a rule, policy, or practice concerning or prohibiting the presence of firearms on the private employer's premises or property, including motor vehicles owned by the private employer.

3. Because the future version of R.C. 2923.129 that appears in Section 3 of the bill is now existing law, the bill needs to be amended to remove from the bill the version of R.C. 2923.129 that appears in Section 1 of the bill and to replace the removed version with the version of R.C. 2923.129 that appears in Section 3 of the bill.

HISTORY

ACTION	DATE
Introduced	05-22-07

h0225-i-127.doc/kl

