



# Ohio Legislative Service Commission

## Bill Analysis

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### H.B. 387\*

130th General Assembly  
(As Introduced)

**Reps.** Hood and Lynch, Thompson, J. Adams, Brenner, Young, Becker, Roegner, Maag, Retherford

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## BILL SUMMARY

- Allows a person who has a concealed handgun license to carry concealed under authority of the license all firearms other than firearms that are dangerous ordnance or that state or federal law prohibits the person from possessing.
- Provides that a person who is 21 or older and not legally prohibited by federal law from possessing or receiving a firearm: (1) does not need a concealed handgun license in order to carry or have concealed on the person's person or ready at hand a firearm that is not dangerous ordnance and that state or federal law does not prohibit the person from possessing, and (2) is subject to the same laws regarding carrying a concealed firearm as a person who has a concealed handgun license.

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\* Am. Sub. H.B. 234, which achieved concurrence on December 10, 2014, but, as of the date this analysis was prepared, has not been signed by the Governor, amends certain provisions of law described in this analysis.

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## CONTENT AND OPERATION

### **Concealed carry licensee – types of weapons that may be carried concealed, prohibited places, and related provisions**

Currently, the Concealed Carry Law (R.C. 2923.124 to 2923.1213) provides for the issuance of standard licenses to carry a concealed handgun under R.C. 2923.125 and temporary emergency licenses to carry a concealed handgun under R.C. 2923.1213 and also provides for the Attorney General to enter into reciprocity agreements with other states that issue licenses to carry a concealed handgun. Currently, subject to a series of exceptions, a person who has an Ohio standard license to carry a concealed handgun, an Ohio temporary emergency license to carry a concealed handgun, or a license to carry a concealed handgun issued by another state with which Ohio has a reciprocity agreement (hereafter, collectively referred to as a "concealed carry licensee") may carry a concealed handgun anywhere in Ohio if the licensee also carries a valid concealed handgun license and valid identification when the person is in actual possession of a concealed handgun.<sup>1</sup> The bill expands the types of weapons that a concealed carry licensee may carry concealed under authority of a license so that the right extends to most firearms, not just handguns.

#### **Types of weapons that may be carried concealed with a license**

Under the bill, subject to a series of exceptions, a concealed carry licensee may carry *a concealed firearm that is not a "restricted firearm"* anywhere in Ohio if the licensee also carries a valid concealed handgun license and valid identification when the licensee is in actual possession of the concealed firearm. This right applies with respect

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<sup>1</sup> R.C. 2923.126(A) and (D).



to both standard concealed handgun licenses and temporary emergency concealed handgun licenses and applies regardless of whether the license was issued prior to, on, or after the bill's effective date. It also applies with respect to a license issued by another state with which the Attorney General has entered into a reciprocity agreement under Ohio law. The bill specifies that this right to carry a concealed firearm that it grants does not authorize a licensee to carry a *restricted firearm*. As stated above, currently, the right of a licensee to carry a concealed weapon extends only with respect to *handguns*.<sup>2</sup> The exceptions to the right are described below in "**Places in which a licensee may not carry concealed with a license**" and the definition of "restricted firearm" is set forth below in "**Definition of "restricted firearm"**." The bill retains the name "concealed handgun license" for licenses issued under the Concealed Carry Law.

The bill modifies numerous existing provisions that pertain or refer to the carrying of a concealed handgun to conform them to the change described in the preceding paragraph. In most of the provisions, the change replaces the term "handgun" with the phrase "firearm that is not a restricted firearm." Many of the provisions in which the bill makes the conforming changes are provisions that pertain to places in which a licensee may not carry concealed with a license, described below in "**Places in which a licensee may not carry concealed with a license**," and criminal offenses that prohibit carrying, generally described below in "**Crimes that prohibit carrying a firearm in specified circumstances**." Other provisions in which the bill makes conforming changes of this nature pertain to: license reciprocity with other states; application forms for standard concealed handgun licenses and temporary emergency concealed handgun licenses; the definition of "concealed handgun license"; training needed for a standard concealed handgun license; the right of a licensee from another state, a peace officer, or a qualified retired peace officer to carry a concealed firearm; private employer and political subdivision immunity; immunity of sheriff and other persons performing duties under the Concealed Carry Law; and private investigators and security guard providers who obtain a concealed handgun license.<sup>3</sup>

### **Places in which a licensee may not carry concealed with a license**

Several provisions of existing law restrict the types of places in which a concealed carry licensee is not permitted to carry a concealed handgun under authority of a concealed handgun license. The restricted places either are places expressly listed in the Concealed Carry Law, places that are subject to restrictions imposed by an employer, a private property owner, or a private lessee of government property, or

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<sup>2</sup> R.C. 2923.126(A), (B), and (D) and 2923.1213(C).

<sup>3</sup> R.C. 109.69, 109.731, 2923.11(N)(1), 2923.125(B)(3)(d), (D)(1)(k), and (G), 2923.126(C)(2) and (D) to (F), 2923.129; 2923.1210; 2923.1213(A) and (D), and 4749.10.



places or circumstances specified in criminal offenses located outside the Concealed Carry Law.

The existing provisions in the Concealed Carry Law that expressly list the restricted places and the existing provisions regarding restrictions imposed by an employer, property owner, or property lessee are described below in "**Background – existing restrictions on concealed carry that are expressly listed places or are imposed by an employer, property owner, or property lessee.**" The bill retains the existing provisions that expressly list the restricted places, but replaces references in the provisions to "handgun" with references to "firearm," to conform to the bill's expansion of the types of weapons that may be carried concealed with a license, as described above. It also retains the existing provisions that pertain to restrictions imposed by an employer, a private property owner, or a private lessee of government property, with two changes. First, it replaces the references in the provisions to "handgun" with references to "firearm," to conform to the bill's provisions described above. Second, in a provision that generally authorizes the owner or person in control of private premises and a private person or entity leasing government-owned premises but specifies that a landlord of residential premises generally may not prohibit or restrict a tenant, or a guest of a tenant while the tenant is present, from lawfully carrying or possessing a handgun on the residential premises, it expands the landlord restriction so that the restriction also provides that a landlord of residential premises may not prohibit or restrict a tenant of the premises who is a licensee and who on or after the bill's effective date enters into a rental agreement with the landlord for the use of the premises, and the tenant's guest while the tenant is present, from lawfully carrying or possessing a firearm that is not a restricted firearm on those residential premises (see "**Definition of "restricted firearm**", " below).<sup>4</sup>

Regarding restricted places that result from criminal offenses, several existing criminal offenses prohibit the carrying of firearms in specified places or circumstances. Many of those crimes have exceptions for concealed carry licensees in specified circumstances, but the crimes could apply to licensees in some circumstances. In the provision of the Concealed Carry Law that generally authorizes a concealed carry licensee to carry concealed anywhere in Ohio (R.C. 2923.126(B)), the bill lists the existing crimes and specifies that the right to carry concealed does not authorize a licensee to carry a concealed firearm in any manner prohibited under any of those crimes.<sup>5</sup> The bill generally retains the prohibitions in the existing crimes, but, for those offenses that have exceptions for concealed carry licensees, generally expands the exceptions. The criminal offenses that prohibit the carrying of firearms in specified places or circumstances, and

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<sup>4</sup> R.C. 2923.126(B), (C)(1), and (C)(3).

<sup>5</sup> R.C. 2923.126(B).



the changes to those offenses made by the bill, are described below in "**Crimes that prohibit carrying a firearm in specified circumstances.**"

### **Issuance of a concealed handgun license**

Currently, upon receipt of a completed application form for a standard concealed carry license, supporting documentation, and a license fee if required, a sheriff conducts or causes to be conducted a criminal records check and an incompetency records check. If the sheriff determines that all of a list of 13 specified criteria apply, the sheriff must issue the applicant the standard license.<sup>6</sup> The application form requires the applicant to respond to questions about the applicant's eligibility under the criteria.<sup>7</sup> Upon receipt of a sworn affidavit for a temporary emergency concealed carry license, other specified materials, and a license fee if required, a sheriff conducts or causes to be conducted a criminal records check and an incompetency records check. If the sheriff determines that all of a list of 11 specified criteria apply, the sheriff must issue the applicant the temporary emergency license.<sup>8</sup> The sworn affidavit requires the applicant to swear to the applicant's eligibility under the criteria.<sup>9</sup> Relevant to the bill, one of the criteria specified for both of the types of licenses is that the applicant is not subject to a suspension imposed under R.C. 2923.128(A)(2) of a standard license or a temporary emergency license that previously was issued to the applicant.<sup>10</sup>

R.C. 2923.128(A)(2) specifies that if a licensee holding a valid concealed carry license is convicted of a misdemeanor violation of R.C. 2923.12(B)(1), (2), or (4) or of R.C. 2923.16(E)(1), (2), (3), or (5), subject to two exceptions, the sheriff who issued the license must suspend the license. A license suspended for a misdemeanor violation of R.C. 2923.12(B)(1) or (2) or of 2923.16(E)(1), (2), or (3) ends on the date that is one year after the date of the conviction and a suspension under R.C. 2923.12(B)(4) or of 2923.16(E)(5) ends on the date that is two years after the date of the conviction. One exception specifies that the license is not to be suspended if, at the time of the stop of the licensee, a law enforcement officer or Motor Carrier Enforcement Unit employee involved with the stop had actual knowledge at the time of the stop that the offender was a licensee. The second exception specifies that a sheriff is not to consider a conviction for purposes of the suspension provision if a court has ordered the records of

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<sup>6</sup> R.C. 2923.125(C) and (D).

<sup>7</sup> R.C. 2923.1210.

<sup>8</sup> R.C. 2923.1213(B)(2).

<sup>9</sup> R.C. 2923.1213(B)(1)(b).

<sup>10</sup> R.C. 2923.125(D)(1)(m) and 2923.1213(B)(2).



the conviction sealed or expunged or a court has granted the offender relief from the firearms disability imposed under R.C. 2923.14 with respect to that conviction.<sup>11</sup>

The bill expands the criterion for issuance of a standard or temporary emergency concealed handgun license described above that relates to an R.C. 2923.128(A)(2) suspension so that the criterion also includes a requirement that the applicant has not been convicted of a misdemeanor violation of R.C. 2923.12(B)(1) or (2) or of 2923.16(E)(1), (2), or (3) within one year of the date of the application or a misdemeanor violation of R.C. 2923.12(B)(4) or of 2923.16(E)(5) within two years of the date of the application.<sup>12</sup> The bill also expands the provision regarding the suspension criterion that is included on the application for a standard concealed carry license and on the sworn affidavit for a temporary emergency concealed carry license to conform to this expansion of the criterion.<sup>13</sup>

### **Revocation of a concealed handgun license**

Currently, a sheriff who issues a standard concealed handgun license is required to revoke the license in accordance with specified procedures upon becoming aware that any of eight specified revocation criteria applies to the licensee. Relevant to the bill, one of the criteria is that 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). In conformity with the changes described above in "**Types of weapons that may be carried concealed with a license**" and "**Places in which a licensee may not carry concealed with a license**," the bill modifies this criterion so that it reads that the licensee knowingly carries *a concealed firearm* into a place that the licensee knows is an unauthorized place specified in R.C. 2923.126(B), *knowingly carries a concealed firearm in any prohibited manner listed in that division, or knowingly carries under alleged authority as a licensee a concealed restricted firearm*.<sup>14</sup>

### **Carrying concealed firearm by person not subject to federal firearms ban**

The bill provides that, notwithstanding any Revised Code section to the contrary, subject to the limitations described in this paragraph and the third succeeding paragraph, a person who is 21 or older and is not legally prohibited from possessing or receiving a firearm under 18 U.S.C. 922(g)(1) to (9), as described below, is not required to obtain a concealed handgun license under the Concealed Carry Law in order to carry

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<sup>11</sup> R.C. 2923.128(A)(2) and (C).

<sup>12</sup> R.C. 2923.125(D)(1)(m) and 2923.1213(B)(2).

<sup>13</sup> R.C. 2923.1210 and 2923.1213(B)(1)(b).

<sup>14</sup> R.C. 2923.128(B).



in Ohio *a concealed firearm that is not a restricted firearm* (see "**Definition of "restricted firearm"**," below). Except as provided in the provisions described above in "**Places in which a licensee may not carry concealed with a license**" and regardless of whether the person has been issued a concealed handgun license under the Concealed Carry Law or by another state, a person who is 21 or older and is not legally prohibited from possessing or receiving a firearm under 18 U.S.C. 922(g)(1) to (9) may carry *a concealed firearm that is not a restricted firearm* anywhere in Ohio. The person's right to carry a concealed firearm that is not a restricted firearm that is granted under this provision is the same right as is granted to a person who was issued a standard concealed handgun license under the Concealed Carry Law, and the person described in this paragraph is subject to the same restrictions as apply to a person who was issued a standard concealed handgun license under that Law.

Under the bill, the mere carrying or possession of a firearm that is not a restricted firearm pursuant to the right described in the preceding paragraph, with or without a concealed handgun license issued under the Concealed Carry Law or by another state, does not constitute grounds for any law enforcement officer or any agent of the state, a county, a municipal corporation, or a township to conduct any search, seizure, or detention, no matter how temporary in duration, of an otherwise law-abiding person.

The bill specifies that, for purposes of any provision of law that refers to a concealed handgun license or a concealed handgun licensee, except when the context clearly indicates otherwise, a person who is described in the second preceding paragraph and is carrying or has, concealed on the person's person or ready at hand, a firearm that is not a restricted firearm is deemed to have been issued a standard concealed handgun license under the Concealed Carry Law.

Under the bill, the standard concealed handgun license expiration provisions, license suspension provisions, and license revocation provisions of the Concealed Carry Law do not apply with respect to a person who is described in the third preceding paragraph unless the person has been issued a license. If a person who is described in that paragraph thereafter comes within any category of persons specified in 18 U.S.C. 922(g)(1) to (9) so that the person as a result is legally prohibited under the applicable provision from possessing or receiving a firearm, both of the following apply automatically and immediately upon the person coming within that category: (1) the provisions described in the third preceding paragraph and the authority and right to carry a concealed firearm described in those provisions do not apply to the person, and (2) the provisions described in the preceding paragraph do not apply to the person, and



the person no longer is deemed to have been issued a standard concealed handgun license under the Concealed Carry Law as described in that paragraph.<sup>15</sup>

Under 18 U.S.C. 922(g)(1) to (9), it is unlawful for any of the following persons to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition that has been shipped or transported in interstate or foreign commerce: (1) a person who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year, (2) a person who is a fugitive from justice, (3) a person who is an unlawful user of or addicted to any controlled substance, as defined in 21 U.S.C. 802, (4) a person who has been adjudicated as a mental defective or who has been committed to a mental institution, (5) a person who, being an alien, either is illegally or unlawfully in the United States, or, except as provided in 18 U.S.C. 922(y)(2), has been admitted to the United States under a nonimmigrant visa as defined in 8 U.S.C. 1101(a)(26), (6) a person who has been discharged from the Armed Forces under dishonorable conditions, (7) a person who, having been a citizen of the United States, has renounced his or her citizenship, (8) a person who is subject to a court order that was issued after a hearing of which the person received actual notice and at which the person had an opportunity to participate, that restrains the person from harassing, stalking, or threatening an intimate partner of the person or child of an intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child, and that either includes a finding that the person represents a credible threat to the physical safety of the intimate partner or child or by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against the intimate partner or child that would reasonably be expected to cause bodily injury, or (9) a person who has been convicted in any court of a misdemeanor crime of domestic violence.<sup>16</sup>

Related to the provisions described above, the bill expands the definition of "licensee" that applies to the Concealed Carry Law so that, in addition to the persons currently included within that term, it includes, except when the context clearly indicates otherwise, a person who is deemed under those provisions to have been issued a standard concealed handgun license under the Concealed Carry Law. Currently, the term means a person who has been issued a standard concealed handgun license under that Law and, except when the context clearly indicates otherwise, a person who has been issued a temporary emergency concealed handgun license under that Law and a person to whom a concealed handgun license has been issued by

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<sup>15</sup> R.C. 2923.111; also R.C. 2923.126(D).

<sup>16</sup> 18 U.S.C. 922(g)(1) to (9), not in the bill.





another state. The bill also specifies that a reference in any Revised Code provision to a person who is deemed under the provisions described above to have been issued a standard concealed handgun license under the Concealed Carry Law means only a person who is so deemed and does not include a person who has been issued a standard concealed handgun license or temporary emergency concealed handgun license under that Law or a person who has been issued a concealed handgun license by another state with which Ohio has reciprocity.<sup>17</sup>

The bill modifies numerous existing provisions that pertain or refer to concealed carry to conform them to the provisions described in the preceding paragraphs. In most of the provisions, the change expands existing references to "a person who is carrying a valid concealed handgun license" so that the provision also refers to "a person who is deemed under the provisions described above to have been issued a standard concealed handgun license under the Concealed Carry Law." These changes generally are described below in "**Crimes that prohibit carrying a firearm in specified circumstances.**" The bill specifies in the provisions described above in "**Concealed carry licensee – types of weapons that may be carried concealed, prohibited places, and related provisions**" that they also apply with respect to a person who is deemed under the provisions described above to have been issued a standard concealed handgun license under the Concealed Carry Law.<sup>18</sup> The bill also makes a conforming change of this nature in a provision that pertains to policies of a private employer concerning firearms on the employer's property.<sup>19</sup>

### **Crimes that prohibit carrying a firearm in specified circumstances**

Several existing criminal offenses prohibit the carrying of firearms in specified places or circumstances. Many of those crimes have exceptions for concealed carry licensees in specified circumstances, but they could apply to concealed carry licensees in some circumstances. The bill generally retains the prohibitions in the existing crimes, but, for those offenses that have exceptions for concealed carry licensees, it generally expands the exceptions (some of the expansions make the exceptions apply to firearms other than "restricted firearms" – that term is defined below in "**Definition of "restricted firearm"**"). Regarding those matters:

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<sup>17</sup> R.C. 2923.11(N)(2) and 2929.124(D).

<sup>18</sup> R.C. 2923.126(B) and (D).

<sup>19</sup> R.C. 2923.126(C)(1).



## Vessel-related firearms offenses

Existing R.C. 1547.69, in relevant part, prohibits any person from knowingly discharging a firearm while in or on a vessel; from knowingly transporting or having a loaded firearm in a vessel in a manner that the firearm is accessible to the operator or any passenger; from knowingly transport or have a firearm in a vessel unless it is unloaded and is carried in a closed package, box, or case or in plain sight with the action opened or the weapon stripped, or, if the firearm is of a type on which the action will not stay open or that cannot easily be stripped, in plain sight; and from operating or permitting to be operated any vessel on the waters in Ohio state in violation of the prior prohibitions. Several exceptions and affirmative defenses are provided for certain of the prohibitions described above.

Relevant to the bill, the transportation/possession prohibitions do not apply to a person who transports or possesses a handgun in a vessel and who, at the time of that transportation or possession, is carrying a valid concealed handgun license, unless the person knowingly is in a place on the vessel described in R.C. 2923.126(B). The bill modifies this exception so that it specifies that the transportation/possession prohibitions do not apply to a person who transports or possesses in a vessel *a firearm that is not a restricted firearm* and who, at the time of that transportation or possession, is carrying a valid concealed handgun license *or is deemed under the bill's provisions described above in "Carrying concealed firearm by person not subject to federal firearms ban" to have been issued a standard concealed handgun license under the Concealed Carry Law*, unless the person at that time *knowingly is in an unauthorized place specified in R.C. 2923.126(B) or knowingly is transporting or possessing the firearm in any prohibited manner listed in that division*. It also specifies that the affirmative defenses authorized by existing law for the transportation/possession prohibitions will be available only if the modified exception described in the preceding sentence does not apply to the person charged.<sup>20</sup>

## Illegal conveyance of weapons onto the grounds of a specified governmental facility

Existing R.C. 2921.36, in relevant part, prohibits any person from: (1) knowingly conveying, or attempting to convey, onto the grounds of a detention facility or of an institution, office building, or other place that is under the control of the Department of Mental Health, the Department of Developmental Disabilities, the Department of Youth Services, or the Department of Rehabilitation and Correction any deadly weapon or dangerous ordnance, or any part of or ammunition for use in such a deadly weapon or dangerous ordnance, or (2) knowingly delivering, or attempting to deliver, to any

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<sup>20</sup> R.C. 1547.69.

person who is confined in a detention facility, to a child confined in a youth services facility, to a prisoner who is temporarily released from confinement for a work assignment, or to any patient in an institution under the control of the Department of Mental Health or the Department of Developmental Disabilities any item listed in clause (1). An exception and several affirmative defenses are provided for certain of the prohibitions, but none of them include as a criterion for their application that the person is a concealed carry licensee. This section is not changed by, or included in, the bill.<sup>21</sup>

### **Carrying concealed weapons**

**Prohibitions that apply to any person.** Existing R.C. 2923.12 prohibits any person from knowingly carrying or having, concealed on the person's person or concealed ready at hand, any deadly weapon other than a handgun, any handgun other than a dangerous ordnance, or any dangerous ordnance. Several exceptions are provided for certain of the prohibitions, and an affirmative defense is provided for the prohibition regarding deadly weapons other than a handgun.

Relevant to the bill, the prohibition regarding handguns other than dangerous ordnance does not apply to a person who carries or possesses a handgun who, at the time of that carrying or possession, is carrying a valid concealed handgun license, unless the person knowingly is in a place described in R.C. 2923.126(B). The bill modifies this exception, and expands it so that it also applies to the prohibition regarding a deadly weapon other than a handgun. Under the bill, the exception specifies that neither the prohibition regarding handguns other than dangerous ordnance nor the prohibition regarding deadly weapons other than a handgun applies to a person who carries or possesses *a firearm that is not a restricted firearm* and who, at the time of that carrying or possession, is carrying a valid concealed handgun license *or is deemed under the bill's provisions described above in "**Carrying concealed firearm by person not subject to federal firearms ban**" to have been issued a standard concealed handgun license under the Concealed Carry Law*, unless the person at that time *knowingly is in an unauthorized place specified in R.C. 2923.126(B) or knowingly is transporting or possessing the firearm in any prohibited manner listed in that division*. The bill also specifies that the affirmative defense authorized by existing law for the transportation prohibition regarding deadly weapons other than a handgun will be available only if the modified exception described in the preceding sentence, or the other existing exceptions to the prohibition (unchanged by the bill), do not apply to the person charged.

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<sup>21</sup> R.C. 2921.36, not in the bill.



Existing law provides special penalties, in certain circumstances, for a person convicted of a violation of the prohibition described above regarding handguns other than a dangerous ordnance. The offense is a minor misdemeanor if the person produces a valid concealed handgun license within ten days after being arrested for the violation and was not knowingly in a place described in R.C. 2923.126(B), and it is a misdemeanor with a \$500 fine if the person previously had been issued a concealed handgun license that expired within the preceding two years, the person produces a concealed handgun license within 45 days after being arrested and waives the right to speedy trial, and the person was not knowingly in a place described in R.C. 2923.126(B). If neither of those special penalty provisions applies, the standard penalty provisions for the prohibition apply – under those standard penalty provisions, the offense generally is a first degree misdemeanor, but it is a fourth degree felony if the offender previously has been convicted of carrying concealed weapons or of any offense of violence, if the weapon involved is loaded or the offender has ammunition ready at hand for the weapon, or if the weapon involved is dangerous ordnance, and it is a third degree felony if the offense is committed aboard an aircraft or with purpose to carry a concealed weapon aboard an aircraft. The bill repeals these special penalties so that, under the bill, the standard penalties described above apply to all violations of the prohibition.<sup>22</sup>

**Prohibitions that apply only to concealed carry licensees.** Existing R.C. 2923.12 also prohibits any concealed carry licensee who is stopped for a law enforcement purpose and is carrying a concealed handgun from: (1) failing to notify a law enforcement officer who approaches that the person is a licensee and is carrying a concealed handgun, (2) generally failing to keep the licensee's hands in plain sight after a law enforcement officer begins approaching the person and before the officer leaves, (3) generally removing or attempting to remove the loaded handgun from the place in which the person is carrying it or having contact with the loaded handgun after a law enforcement officer begins approaching and before the officer leaves, or (4) disregarding or failing to comply with a lawful order of a law enforcement officer given while the person is stopped. A violation of the prohibition described in clause (1) generally is a first degree misdemeanor and the offender's concealed handgun license is suspended, but if a law enforcement officer involved with the stop had actual knowledge at the time of the stop that the offender had been issued a license, it is a minor misdemeanor and the offender's license is not suspended. A violation of the prohibition described in clause (2) or (4) generally is a first degree misdemeanor, but if the offender previously has been convicted of a violation of either prohibition, it is a fifth degree felony. In any case, the offender's license is suspended for a violation of the prohibition described in clause (2) or (4). A violation of the prohibition described in

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<sup>22</sup> R.C. 2923.12(A), (C)(2), (D), and (F)(1), and repeal of existing (F)(2).



clause (3) is a fifth degree felony. The bill expands these prohibitions and penalties, except for the license suspension sanctions, so that they also apply to a person *who is deemed under the bill's provisions described above in "Carrying concealed firearm by person not subject to federal firearms ban" to have been issued a standard concealed handgun license under the Concealed Carry Law.*<sup>23</sup>

Existing R.C. 2923.126(A) imposes requirements on concealed carry licensees that are similar to the prohibitions described in the preceding paragraph. Consistent with the expansion of the prohibitions described in that paragraph, the bill similarly expands the requirements.<sup>24</sup>

### **Illegal possession of a firearm in liquor permit premises**

Existing R.C. 2923.121 prohibits a person from possessing a firearm in any room in which any person is consuming beer or intoxicating liquor in a premises for which a D Liquor Permit has been issued or in an open air arena for which a permit of that nature has been issued. Several exceptions and affirmative defenses are provided for the prohibition.

Relevant to the bill, the prohibition does not apply to any person who is carrying a valid concealed handgun license, as long as the person is not consuming beer or intoxicating liquor or under the influence of alcohol or a drug of abuse. The prohibition also does not apply to the principal holder of the D permit while in the permit premises if that holder also possesses a valid concealed handgun license and as long as that holder is not consuming beer or intoxicating liquor or under the influence of alcohol or a drug of abuse, or to any agent or employee of that holder who also is a peace officer, who is off duty, and who otherwise is authorized to carry firearms while in the course of the officer's official duties and while in the permit premises and as long as the agent or employee is not consuming beer or intoxicating liquor or under the influence of alcohol or a drug of abuse.

The bill modifies the first exception described in the preceding paragraph so that it specifies that the prohibition does not apply to a person who is carrying a valid concealed handgun license *or is deemed under the bill's provisions described above in "Carrying concealed firearm by person not subject to federal firearms ban" to have been issued a standard concealed handgun license under the Concealed Carry Law,* as long as *the firearm is not a restricted firearm* and the person is not consuming beer or intoxicating liquor or under the influence of alcohol or a drug of abuse. The bill modifies the second

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<sup>23</sup> R.C. 2923.12(B) and redesignated (F)(2) to (4).

<sup>24</sup> R.C. 2923.126(A).



exception described in the preceding paragraph so that it specifies that the prohibition does not apply to: (1) the principal holder of the D permit while in the permit premises if that holder also possesses a valid concealed handgun license *or is deemed under those provisions of the bill described above to have been issued a standard concealed handgun license under the Concealed Carry Law* and as long as *the firearm is not a restricted firearm* and that holder is not consuming beer or intoxicating liquor or under the influence of alcohol or a drug of abuse, or (2) any agent or employee of that holder who also is a peace officer, who is off duty, and who otherwise is authorized to carry firearms while in the course of the officer's official duties and while in the permit premises and as long as *the firearm is not a restricted firearm* and the agent or employee is not consuming beer or intoxicating liquor or under the influence of alcohol or a drug of abuse. The bill also specifies that the affirmative defenses authorized by existing law will be available only if the modified exception described in the second preceding sentence does not apply to the person charged.<sup>25</sup>

### **Illegal conveyance or possession of a deadly weapon or dangerous ordnance in a school safety zone**

Existing R.C. 2923.122, in relevant part, prohibits a person from knowingly conveying, or attempting to convey, a deadly weapon or dangerous ordnance into a school safety zone, and from knowingly possessing a deadly weapon or dangerous ordnance in a school safety zone. Several exceptions are provided for the prohibitions.

Relevant to the bill, 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 conduct: (1) the person does not enter into a school building or onto school premises and is not at a school activity, the person is carrying a valid concealed handgun license, the person is in the school safety zone in accordance with 18 U.S.C. 922(q)(2)(B), and the person is not knowingly in a place described in R.C. 2923.126(B) other than a school safety zone, or (2) the person is carrying a valid concealed handgun license, the person is the driver or passenger in a motor vehicle and is in the school safety zone while immediately in the process of picking up or dropping off a child, and the person is not in violation of R.C. 2923.16, as described below in "**Improperly handling firearms in a motor vehicle.**"

The bill consolidates the exceptions described in the preceding paragraph into a single exception and expands the exception to specify that the prohibition does not apply to a person who conveys or attempts to convey *a firearm that is not a restricted firearm* into, or possesses *a firearm that is not a restricted firearm* in, a school safety zone if, at the time of the conduct, the person is carrying a valid concealed handgun license *or is*

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<sup>25</sup> R.C. 2923.121.



*deemed under the bill's provisions described above in "**Carrying concealed firearm by person not subject to federal firearms ban**" to have been issued a standard concealed handgun license under the Concealed Carry Law and either of the following applies: (1) the person does not enter into a school building or onto school premises and is not at a school activity, the person is in the school safety zone in accordance with 18 U.S.C. 922(q)(2)(B), and the person is not knowingly in an unauthorized place specified in R.C. 2923.126(B) and not knowingly conveying, attempting to convey, or possessing the firearm in any prohibited manner listed in that division, or (2) as under existing law, the person is the driver or passenger in a motor vehicle and is in the school safety zone while immediately in the process of picking up or dropping off a child and the person is not in violation of R.C. 2923.16, as described below in "**Improperly handling firearms in a motor vehicle.**"<sup>26</sup>*

### **Illegal conveyance, possession, or control of a deadly weapon or dangerous ordnance in a courthouse**

Existing R.C. 2923.123 prohibits a person from knowingly 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, and from knowingly possessing or having under the person's control a deadly weapon or dangerous ordnance in a courthouse or in another building or structure in which a courtroom is located. Several exceptions are provided for the prohibition.

Relevant to the bill, the prohibitions do not apply to 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 conduct, is carrying a valid concealed handgun license, and who transfers possession of the handgun to the officer or officer's designee who has charge of the courthouse or building. The exception applies only if the officer who has charge of the courthouse or building provides services of the nature described in this paragraph. An officer who has charge of the courthouse or building is not required to offer services of the nature described in this paragraph. The exception does not apply to any person described in the exception if a Rule of Superintendence or another type of rule adopted by the Supreme Court pursuant to Article IV, Ohio Constitution, 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.

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<sup>26</sup> R.C. 2923.122(D)(3) and repeal of existing division (D)(4).

The bill modifies the exception described in the preceding paragraph so that it specifies that the prohibition does not apply to a person who conveys or attempts to convey *a firearm that is not a restricted firearm* into a courthouse or into another building or structure in which a courtroom is located *or who possesses or has under the person's control a firearm that is not a restricted firearm in a courthouse or such a building or structure*, if the person at the time of the conduct is carrying a valid concealed handgun license *or is deemed under the bill's provisions described above in "**Carrying concealed firearm by person not subject to federal firearms ban**" to have been issued a standard concealed handgun license under the Concealed Carry Law* and the person transfers possession of the *firearm* to the officer or officer's designee who has charge of the courthouse or building. The officer must secure the *firearm* until the person is prepared to leave the premises. As under existing law, this exception applies only if the officer who has charge of the courthouse or building provides services of the nature described in this paragraph, and the officer is not required to offer services of that nature.<sup>27</sup>

### **Having weapons while under disability**

Existing R.C. 2923.13 prohibits a person, unless relieved from disability under a mechanism set forth in R.C. 2923.14, from knowingly acquiring, having, carrying, or using any firearm or dangerous ordnance, if: (1) the person is a fugitive from justice, (2) the person is under indictment for, has been convicted of, or has been adjudicated a delinquent child for committing any felony offense of violence, (3) the person is under indictment for, has been convicted of, or has been adjudicated a delinquent child for committing any felony offense involving the illegal possession, use, sale, administration, distribution, or trafficking in any drug of abuse, (4) the person is drug dependent, in danger of drug dependence, or a chronic alcoholic, or (5) the person is under adjudication of mental incompetence, has been adjudicated as a mental defective, has been committed to a mental institution, has been found by a court to be a mentally ill person subject to hospitalization by court order, or is an involuntary patient other than one who is a patient only for purposes of observation. This section does not include any exception, other than relief from disability under R.C. 2923.14, or any affirmative defense. This section is not changed by, or included in, the bill.<sup>28</sup>

### **Possession of a deadly weapon while under detention**

Existing R.C. 2923.131 prohibits any person under detention at a detention facility from possessing a deadly weapon. As used in this prohibition, "detention" means arrest; confinement in any vehicle subsequent to an arrest; confinement in any

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<sup>27</sup> R.C. 2923.123(C)(6).

<sup>28</sup> R.C. 2923.13, not in the bill.

public or private facility for custody of persons charged with or convicted of crime in Ohio or another state or under the laws of the United States or alleged or found to be a delinquent child or unruly child in Ohio or another state or under the laws of the United States; hospitalization, institutionalization, or confinement in any public or private facility that is ordered pursuant to or under the authority of R.C. 2945.37 to 2945.402; confinement in any vehicle for transportation to or from any facility of any of those natures; detention for extradition or deportation; except as provided in this division, supervision by any employee of any facility of any of those natures that is incidental to hospitalization, institutionalization, or confinement in the facility but that occurs outside the facility; supervision by an employee of the Department of Rehabilitation and Correction of a person on any type of release from a state correctional institution; confinement in any vehicle, airplane, or place while being returned from outside of this state into this state by a private person or entity pursuant to a contract entered into under R.C. 311.29(E) or 5149.03(B); or, for a person confined in a county jail who participates in a county jail industry program, time spent at an assigned work site and going to and from the work site. "Detention facility" means any public or private place used for the confinement of a person charged with or convicted of any crime in Ohio or another state or under the laws of the United States or alleged or found to be a delinquent child or unruly child in Ohio or another state or under the laws of the United States. This section does not include any exception or affirmative defense. This section is not changed by, or included in, the bill.<sup>29</sup>

### **Using weapons while intoxicated**

Existing R.C. 2923.15 prohibits any person, while under the influence of alcohol or any drug of abuse, from carrying or using any firearm or dangerous ordnance. This section does not include any exception or any affirmative defense. This section is not changed by, or included in, the bill.<sup>30</sup>

### **Improperly handling firearms in a motor vehicle**

**Prohibitions that apply to any person.** Existing R.C. 2923.16 prohibits any person from knowingly: (1) discharging a firearm while in or on a motor vehicle, (2) transporting or having 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, (3) transporting or having a firearm in a motor vehicle, unless the person may lawfully possess that firearm under applicable law of Ohio or the United States, the firearm is unloaded, and the firearm is carried in a specified manner, or (4) transporting or having

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<sup>29</sup> R.C. 2923.131, not in the bill.

<sup>30</sup> R.C. 2923.15, not in the bill.



a loaded handgun in a motor vehicle if, at the time of that transportation or possession, the person is under the influence of alcohol, a drug of abuse, or a combination of them, or the person's whole blood, blood serum or plasma, breath, or urine contains a concentration of alcohol, a listed controlled substance, or a listed metabolite of a controlled substance prohibited for persons operating a vehicle, regardless of whether the person is the operator of or a passenger in the vehicle. Several exceptions and affirmative defenses are provided for certain of the prohibitions, other than the one summarized in clause (4).

Relevant to the bill, the prohibitions summarized in clauses (2) and (3) of the preceding paragraph 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, the person is carrying a valid concealed handgun license and is not knowingly in a place described in R.C. 2923.126(B). The bill modifies this exception so that it specifies that the prohibitions summarized in clauses (2) and (3) do not apply to a person who transports or possesses *a firearm that is not a restricted firearm* in a motor vehicle if, at the time of that transportation or possession, the person is carrying a valid concealed handgun license *or is deemed under the bill's provisions described above in "**Carrying concealed firearm by person not subject to federal firearms ban**" to have been issued a standard concealed handgun license under the Concealed Carry Law, and the person is not knowingly in an unauthorized place specified in R.C. 2923.126(B), and is not knowingly transporting or possessing the firearm in any prohibited manner listed in that division.* It also specifies that the affirmative defenses authorized by existing law for the prohibitions will be available only if the modified exception described in the preceding sentence does not apply to the person charged and makes a conforming change in a provision regarding the effect of the definition of "unloaded" upon the authority of a concealed carry licensee to carry a concealed firearm.<sup>31</sup>

**Prohibitions that apply only to concealed carry licensees.** Existing R.C. 2923.16 also prohibits any concealed carry licensee who is the driver of or occupant in a motor vehicle that is stopped for a law enforcement purpose and who is carrying a concealed handgun from: (1) failing to notify a law enforcement officer Motor Carrier Enforcement Unit employee who approaches that the person is a licensee and is carrying a concealed handgun, (2) generally failing to remain in the vehicle while stopped or failing to keep the licensee's hands in plain sight after a law enforcement officer begins approaching the person and before the officer leaves, (3) generally having contact with the loaded handgun after a law enforcement officer begins approaching and before the officer leaves, or (4) disregarding or failing to comply with a lawful order of a law enforcement officer given while the person is stopped. A violation of the prohibition described in

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<sup>31</sup> R.C. 2923.16(A) to (D), (F)(5), (G)(1), and (L).



clause (1) or (2) generally is a first degree misdemeanor and the offender's concealed handgun license is suspended, but if a law enforcement officer or Motor Carrier Enforcement Unit employee involved with the stop had actual knowledge at the time of the stop that the offender had been issued a license, it is a minor misdemeanor and the offender's license is not suspended. A violation of the prohibition described in clause (3) or (5) generally is a first degree misdemeanor, but if the offender previously has been convicted of a violation of either prohibition, it is a fifth degree felony. In any case, the offender's license is suspended for a violation of the prohibition described in clause (3) or (5). A violation of the prohibition described in clause (4) is a fifth degree felony. The bill expands these prohibitions and penalties, except for the license suspension sanctions, so that they also apply to a person *who is deemed under the bill's provisions described above in "Carrying concealed firearm by person not subject to federal firearms ban" to have been issued a standard concealed handgun license under the Concealed Carry Law.*<sup>32</sup>

Existing R.C. 2923.126(A) imposes requirements on concealed carry licensees that are similar to the prohibitions described in the preceding paragraph. Consistent with the expansion of the prohibitions described in that paragraph, the bill similarly expands the requirements.<sup>33</sup>

### **Definition of "restricted firearm"**

As used in the bill's provisions described in the preceding parts of this analysis, and throughout the Firearms Law (R.C. 2923.11 to 2923.24), "restricted firearm" means a firearm that is not *dangerous ordnance* (see the next paragraph) and that is not a firearm that any law of Ohio or the United States prohibits the subject person from possessing, having, or carrying.<sup>34</sup>

As used in the definition of "restricted firearm" and throughout the Firearms Law, and unchanged by the bill, "dangerous ordnance" means any *automatic firearm* (see the next paragraph); any sawed-off firearm, zip-gun, or ballistic knife; any of a list of specified explosives; any specified military-type weapon or ammunition for such a weapon; any firearm muffler or silencer; or any combination of parts intended by the owner for use in converting a firearm or other device into a dangerous ordnance.<sup>35</sup> "Dangerous ordnance" does not include: (1) any firearm that employs an obsolete

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<sup>32</sup> R.C. 2923.16(E) and (I).

<sup>33</sup> R.C. 2923.126(A).

<sup>34</sup> R.C. 2923.11(P).

<sup>35</sup> R.C. 2923.11(K).



ignition system or that may be used only with black powder, (2) any pistol, rifle, or shotgun, designed or suitable for sporting purposes, and its ammunition, unless it is an automatic or sawed-off firearm, (3) any pre-1887 style artillery piece that meets specified criteria and specified items used to fire it in specified circumstances, (4) smokeless and black powder, primers, and percussion caps used as a propellant or ignition device in small-arms or small-arms ammunition, (5) inoperable or inert dangerous ordnance that satisfies specified criteria, or (6) any device expressly excepted from the definition of a destructive device pursuant to the federal "Gun Control Act of 1968."<sup>36</sup>

As used in the definition of "dangerous ordnance" and throughout the Firearms Law, and unchanged by the bill, "automatic firearm" means any firearm designed or specially adapted to fire a succession of cartridges with a single function of the trigger, and also means any "semi-automatic firearm" (see below) designed or specially adapted to fire more than 31 cartridges without reloading, other than a firearm chambering only .22 caliber short, long, or long-rifle cartridges. As used in this definition and throughout the Firearms Law, "semi-automatic firearm" means any firearm designed or specially adapted to fire a single cartridge and automatically chamber a succeeding cartridge ready to fire, with a single function of the trigger.<sup>37</sup>

### **Application of bill's changes with respect to concealed carry licenses**

The bill specifies that all of its changes to existing law described in preceding parts of this analysis apply with respect to any standard concealed carry license, temporary emergency concealed carry license, or concealed handgun/concealed firearm license issued by another state with which the Attorney General has entered into a reciprocity agreement under R.C. 109.69, regardless of whether the license was issued prior to, on, or after the bill's effective date.<sup>38</sup>

### **Background – existing restrictions on concealed carry that are expressly listed places or are imposed by an employer, property owner, or property lessee**

Existing provisions in the Concealed Carry Law expressly list certain places into which a concealed carry license does not permit the licensee to carry a concealed handgun, and separately authorize an employer, property owner, or property lessee to restrict the carrying of firearms in specified circumstances on property controlled by the

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<sup>36</sup> R.C. 2923.11(L).

<sup>37</sup> R.C. 2923.11(D) and (E).

<sup>38</sup> Section 6 of the bill.



employer, owner, or lessee. A summary of those existing provisions follows (the bill's changes to the existing provisions are described in preceding parts of this analysis).

### **Places expressly listed in Concealed Carry Law**

The existing Concealed Carry Law expressly lists ten different types of places into which the right to carry a concealed handgun that currently is granted to a concealed carry licensee does not authorize the licensee to carry a concealed handgun. The expressly listed unauthorized places are:<sup>39</sup>

(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 pursuant to specified divisions in R.C. 5119.02 or 5123.03;

(2) A school safety zone, if the carrying is in violation of R.C. 2923.122 (see "**Illegal conveyance or possession of a deadly weapon or dangerous ordnance in a school safety zone,**" above);

(3) A courthouse or another building or structure in which a courtroom is located, if the carrying is in violation of R.C. 2923.123 (see "**Illegal conveyance, possession, or control of a deadly weapon or dangerous ordnance in a courthouse,**" above);

(4) Any premises or open air arena for which a D permit has been issued under R.C. Chapter 4303., if the carrying is in violation of R.C. 2923.121 (see "**Illegal possession of a firearm in liquor permit premises,**" above);

(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 or a type A, type B, or type C family day-care home, except that this provision does not prohibit a licensee who resides in a type A, type B, or 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

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<sup>39</sup> R.C. 2923.126(B).

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, interstate, or intrastate air transportation, or the transportation of mail by aircraft;

(9) Any building that is a government facility of Ohio or an Ohio political subdivision and that is not a building that is used primarily as a shelter, restroom, parking facility for motor vehicles, or rest facility and is not a courthouse or other building or structure in which a courtroom is located that is subject to the provision described in paragraph (3), above (however, note that, notwithstanding this restriction, R.C. 105.41 and 152.08, not in the bill, permit any person to possess, store, or leave a firearm in a motor vehicle in the State Underground Parking Garage at the State Capitol Building or in the parking garage at the Riffe Center for Government and the Arts in Columbus if the person's possession of the firearm in the vehicle, or transportation and possession of the firearm in the vehicle while traveling to the garage, was not in violation of state law);

(10) A place in which Federal law prohibits the carrying.

**Places subject to restrictions imposed by an employer, private property owner, or private lessee of government property**

Existing law specifies that nothing in the Concealed Carry Law negates or restricts 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.<sup>40</sup>

Existing law specifies that, subject to the exception described below, the owner or person in control of private land or premises, and a private person or entity leasing land or premises owned by Ohio, the United States, or a political subdivision of Ohio or the United States, may post a sign in a conspicuous location on that land or on those premises prohibiting persons from carrying firearms or concealed firearms on or onto that land or those premises. Depending upon the circumstances present, a person who knowingly violates a posted prohibition of that nature either is guilty of criminal trespass or is subject to a civil cause of action for trespass based on the violation.<sup>41</sup> Currently, a landlord of residential premises may not prohibit or restrict a tenant of the

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<sup>40</sup> R.C. 2923.126(C)(1).

<sup>41</sup> R.C. 2923.126(B)(3)(a).



premises who is a licensee and who on or after September 9, 2008, enters into a rental agreement with the landlord for the use of premises, and the tenant's guest while the tenant is present, from lawfully carrying or possessing a handgun on those residential premises.<sup>42</sup>

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## HISTORY

ACTION	DATE
Introduced	12-11-13

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<sup>42</sup> R.C. 2923.126(B)(3)(b) and (c).

