



Ohio Legislative Service Commission

Joseph Rogers

Fiscal Note & Local Impact Statement

Bill: S.B. 239 of the 128th G.A. **Date:** May 27, 2010
Status: As Reported by Senate Judiciary Criminal Justice **Sponsor:** Sens. Jones and Schaffer

Local Impact Statement Procedure Required: No — No local cost

Contents: Allows concealed carry of handgun in retail food establishment or food service operation that has any class liquor permit, and makes changes to prohibitions on improperly handling firearms in a motor vehicle

State Fiscal Highlights

STATE FUND

FY 2011 – FUTURE YEARS

General Revenue Fund (GRF)

Revenues - 0 -

Expenditures Potential minimal annual decrease in incarceration costs

Indigent Defense Support Fund (Fund 5DY0)

Revenues Potential negligible annual loss in locally collected court costs

Expenditures - 0 -

Victims of Crime/Reparations Fund (Fund 4020)

Revenues Potential negligible annual loss in locally collected court costs

Expenditures - 0 -

Note: The state fiscal year is July 1 through June 30. For example, FY 2011 is July 1, 2010 – June 30, 2011.

- **Incarceration expenditures.** The elimination of certain fifth degree felony penalties related to the improper handling of firearms in a motor vehicle may result in slightly fewer offenders being sent to prison. In theory, the fiscal effect of such an outcome would be a minimal annual decrease in the Department of Rehabilitation and Correction's GRF-funded incarceration costs.
- **Court cost revenues.** As a result of the bill, some new felony-level convictions may be eliminated. Such an outcome would create the possibility that the state may lose a negligible amount of locally collected court cost revenue that is deposited in the state treasury annually to the credit of the Indigent Defense Support Fund (Fund 5DY0) and the Victims of Crime/Reparations Fund (Fund 4020).

Local Fiscal Highlights

LOCAL GOVERNMENT

FY 2010 – FUTURE YEARS

Counties

Revenues

Potential minimal annual loss in court costs and fines

Expenditures

Potential minimal annual decrease in criminal justice system costs

Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.

- **Criminal justice system expenditures.** It appears that the bill may eliminate a small number of concealed carry-related prohibition violations for county criminal justice systems to process. Any such small reductions in criminal cases stemming from the bill carries the potential to minimally decrease annual operating costs related to the processing of those felony cases.
- **Court cost and fine revenues.** County criminal justice systems may also realize a minimal annual loss in court cost and fine revenue collections, as a result of potentially fewer convictions of certain concealed carry-related prohibitions that are eliminated by the bill.

Detailed Fiscal Analysis

Overview

For the purposes of understanding its fiscal impact, the bill most notably:

- Modifies the laws governing the carrying of a concealed handgun to allow a person who is neither consuming liquor nor under the influence of alcohol or a drug of abuse and who is carrying a valid concealed carry license to carry a concealed handgun in a retail food establishment or food service operation with D-6 and D-8 permits or a D-8 liquor permit.
- Repeals the prohibition against a concealed carry licensee having a loaded handgun in a motor vehicle unless the loaded handgun: (a) is in a holster on the person, (b) is in a closed case, or other container in plain sight, or (c) is stored in a closed glove compartment or vehicle console or in a case that is locked.
- Repeals the prohibition against a licensee who legally has a loaded handgun in a motor vehicle removing the loaded handgun from the holster, container, or glove compartment, and grasping or holding the loaded handgun while the vehicle is in operation.

Concealed carry changes

Retail food establishments

Existing law generally prohibits a person from possessing a firearm in any room in which any person is consuming liquor on premises for which the Liquor Control Commission has issued a D permit or in an open air arena for which the Commission has issued a D permit. The bill expands an exception to this prohibition to allow a person who is neither consuming liquor nor under the influence of alcohol or a drug of abuse and who is carrying a valid license, temporary emergency license, or reciprocity license to carry a concealed handgun in a retail food establishment or food service operation with D-6 and D-8 permits or a D-8 liquor permit.

Firearms in motor vehicles

Current law imposes certain restrictions on a concealed carry licensee transporting a loaded handgun in a motor vehicle. The person must have the loaded handgun either in a holster on the person, or otherwise in a closed case or container including the glove compartment of the vehicle in question. Current law also prohibits a concealed carry licensee who is legally transporting a loaded handgun in a motor vehicle from removing the handgun from its holster, secure case, or container and holding or grasping the loaded handgun while operating the vehicle. A violation of either of these provisions is currently a felony of the fifth degree. The bill eliminates both of these prohibitions and penalties.

In effect, these Concealed Carry Law changes related to retail food establishments and firearms in motor vehicles broaden the scope of where and how a properly licensed individual can lawfully carry a concealed handgun. The practical effect of these changes to current law is that there may be fewer violations of certain restrictions that, under current law, may lead to suspension and/or revocation of the concealed carry license by the county sheriff that issued the license. Given the fact that the overall rate of suspensions and revocations for all violations of the Concealed Carry Law is very small, between 1% and 2% statewide, it seems reasonable to conclude that the reduction in the number of statewide violations potentially resulting from the bill would also be very small.

In addition to any reduction of concealed carry license suspensions, the bill also eliminates two felony of the fifth degree penalties related to the improper handling of firearms in a motor vehicle. Given the comparatively small number of Concealed Carry Law violations and suspensions, it seems reasonable to conclude that any reduction in felony prosecutions resulting from the elimination of two prohibitions, that carried felony penalties, would also be quite small.

State fiscal effects

Incarceration expenditures

The elimination of two fifth degree felony penalties related to the improper handling of firearms in a motor vehicle may result in slightly fewer offenders being sent to prison. In theory, the fiscal effect of such an outcome would be a decrease in the Department of Rehabilitation and Correction's (DRC) GRF-funded incarceration costs. It appears that the reduction in the number felony convictions that may result from the elimination of certain concealed carry-related prohibitions is likely to be very small, and any potential decrease in DRC's annual incarceration costs would be no more than minimal.

Court cost revenues

As noted, the bill may eliminate some new felony-level convictions. Such an outcome would create the possibility that the state may lose a small amount of locally collected state court cost revenue that might otherwise have been collected and forwarded for deposit in the state treasury to the credit of the Indigent Defense Support Fund (Fund 5DY0) and the Victims of Crime/Reparations Fund (Fund 4020). The amount of the potential revenue reduction to Fund 5DY0 (\$30 per felony conviction) and Fund 4020 (\$30 per felony conviction) is likely to be negligible annually, as the number of fewer felony convictions appears likely to be relatively small.

Local fiscal effects

Criminal justice system expenditures

As noted, it appears that the bill may eliminate a relatively small number of concealed carry-related felony violations statewide that county criminal justice systems

would otherwise have had to process. Any such small reductions in criminal cases stemming from the bill carries the potential to decrease costs for counties related to investigating, prosecuting, adjudicating, and sanctioning the violator, as well as paying for defense counsel if the offender is determined to be indigent. Any resulting decrease in an affected county criminal justice system's expenditures will likely be minimal annually due to the small number of potential violations that might otherwise have occurred under current law and practice.

Court cost and fine revenues

County criminal justice systems may also realize a minimal annual decrease in court cost and fine revenue collections, as a result of potentially fewer convictions of certain concealed carry-related prohibitions that are eliminated by the bill.