



*Synopsis of Senate Committee Amendments**

Dennis M. Papp

Legislative Service Commission

Sub. H.B. 347

126th General Assembly
(S. Judiciary – Criminal Justice)

Expanded the R.C. 109.71 definition of "peace officer" to also include investigators of the Bureau of Criminal Identification and Investigation (BCII) commissioned as special agents for the purpose of assisting law enforcement officers or providing emergency assistance to peace officers pursuant to R.C. 109.541, made the definition applicable to the provision described in the next paragraph, and specified that R.C. 109.71 "does not confer any arrest authority or any ability or authority to detain a person, write or issue any citation, or provide any disposition alternative, as granted under R.C. Chapter 2935." (R.C. 109.71).

Modified the types of BCII investigators who are required to successfully complete a firearms requalification program each year (R.C. 109.71(A)(22) and 109.801).

Expanded the information that must be on an application for a license to carry a concealed handgun, the renewal of such a license, or a temporary emergency license to carry a concealed handgun to also require statements as to whether the applicant currently is subject to a suspension of any such license under a new suspension provision included in the bill (see the fifth succeeding paragraph, below) and expanded the information that must be on an application for a license or renewal to also require a statement as to whether the applicant previously applied in any Ohio county or any other state for a license or temporary emergency license and a list of each place where the application was made and, to the best of his or her knowledge, the date of the application (R.C. 2923.1210 and 2923.1213(B)(1)(b)).

In the existing provision setting the fee to be paid by an applicant for a license to carry a concealed handgun or the renewal of such a license eliminated the House Version provision that removed the existing fee distinction based on the number of years the applicant has been an Ohio resident.

Additionally required that before an applicant may be issued a license to carry a concealed handgun, a renewal license, or a temporary emergency license to carry a

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

concealed handgun the applicant also cannot be subject at that time to a suspension of any such license under a new suspension provision included in the bill (see the third succeeding paragraph, below) (R.C. 2923.125(D)(1)(m) and (F), 2923.1210, and 2923.1213(B)(2)).

Removed the provisions of the House Version that specified that in determining whether an applicant for a license to carry a concealed handgun, the renewal of such a license, or a temporary emergency license to carry a concealed handgun satisfied the criteria for the issuance of the license a sheriff could not consider sealed convictions of, pleas of guilty to, or delinquent child adjudications for certain specified offenses that otherwise disqualify the applicant from being issued the license (R.C. 2923.125(D)(i)(e), (f), and (h), (D)(5), and (F), 2923.1210, and 2923.1213(B)(2)).

Removed the provision of the House Version that specified that, in every case in which BCII conducted a criminal records check or incompetency records check of an applicant for a license to concealed carry license, a license renewal, or a temporary emergency concealed carry license, BCII was required to request the FBI to provide any information it has regarding the applicant and replaced the existing provision that requires a sheriff, in order to conduct the checks, to obtain the fingerprints of *not more than four fingers of the applicant* with a provision requiring the sheriff to obtain the fingerprints of *at least four fingers of the applicant* (R.C. 311.41(A)(1)).

Required a one-year suspension of the concealed carry license or temporary emergency concealed carry license of a person convicted of a misdemeanor violation of certain prohibitions regarding a licensee's failure to notify an approaching law enforcement officer that the person is a licensee and has a concealed handgun or a licensee's failure to keep his or her hands in plain sight or remain in a stopped vehicle, if applicable, while a law enforcement officer is approaching, and a two-year suspension of a person convicted of a misdemeanor violation of certain prohibitions regarding a licensee's disregarding or failing to comply with a lawful order of a law enforcement officer (R.C. 2923.128(A)(2) and (3); also R.C. 2923.12(G), 2923.125(H), and 2923.16(I)); added clarifying language regarding a LEADS notation of a suspension or revocation under provisions of existing law (R.C. 2923.128(A)(1) and (B)(2)).

Removed the provisions of the House Version that specified that certain convictions of, pleas of guilty to, or delinquent child adjudications for certain specified offenses, if sealed, were not to be considered as having occurred for purposes of an existing provision that otherwise would require the revocation of a previously issued license or temporary emergency license to carry a concealed handgun as a result of the conviction, guilty plea, or adjudication (R.C. 2923.128(B)(1)(b) and (c), (2), and (3)).

Regarding the existing prohibitions in the offense of "carrying concealed weapons" that apply to any person: (1) relocated (and consolidated with another existing exemption) the existing provision that exempts from the prohibitions specified governmental officers, agents, and employees and law enforcement officers acting within

the scope of their duties (R.C. 2923.12(C)(1)(a) and (C)(2)), and (2) revised the new exemption in the House Version that specifies that the prohibitions generally do not apply to persons subject to and in compliance with the law's firearms requalification requirements (as modified by the bill) unless the person's appointing authority expressly specifies that the exemption does not apply, by limiting the exemption's application so that it applies to persons subject to and in compliance with that requirement only if they also are employed in Ohio and are authorized to carry the specified types of weapons (R.C. 2923.12(C)(1)(b)).

Regarding the prohibitions in the offense of "carrying concealed weapons" that apply only to persons with a concealed carry license or temporary emergency concealed carry license, did the following:

(1) Increased the penalty for a violation of the existing provision that prohibits a licensee who is stopped for a law enforcement purpose and is carrying a concealed handgun from failing to notify an approaching law enforcement officer of the license and the handgun and provided a one-year suspension of the license of a licensee who violates the prohibition (R.C. 2923.12(B)(1) and (G)(3));

(2) Enacted new prohibitions that generally prohibit a licensee who is stopped for a law enforcement purpose and is carrying a concealed handgun from: (a) failing to keep the licensee's hands in plain sight while a law enforcement officer is approaching, (b) removing or attempting to remove the loaded handgun from the place in which the licensee is carrying it, grasping or holding the handgun, or having contact with the handgun by touching it with the licensee's hands or fingers while the law enforcement officer is approaching, or (c) disregarding or failing to comply with a lawful order of a law enforcement officer given while the licensee is stopped, including a specific order to keep the licensee's hands in plain sight (R.C. 2923.12(B)(2) to (4));

(3) As part of the penalty for violations of the new prohibitions described in (2), above), provided a one-year or two-year suspension of the license of a licensee who commits a misdemeanor violation of one of them (R.C. 2923.12(G)(4) and (5));

(4) Revised the new exemption in the House Version that specifies that the prohibitions generally do not apply to persons subject to and in compliance with the law's firearms requalification requirements (as modified by the bill) unless the person's appointing authority expressly specifies that the exemption does not apply, by limiting the exemption's application so that it applies to persons subject to and in compliance with that requirement only if they also are employed in Ohio and are authorized to carry the specified types of weapons (R.C. 2923.12(C)(1)(b)).

(5) In the existing provisions related to the effect of a license that restate as an affirmative duty of a licensee the prohibition in the offense of "carrying concealed weapons" described above in (1) that applies only to licensees, conforms the language of the provisions to the actual language of the prohibition and expands the provisions so that they also restate as an affirmative duty the new prohibitions in the offense that apply to licensees who are stopped for a law enforcement purpose and are carrying a concealed handgun that are described in (2), above (R.C. 2923.124(O) and (P) and 2923.126(A)).

Regarding the existing prohibitions in various offenses that prohibit any person from possessing a firearm in certain liquor permit premises, conveying or possessing, etc., a deadly weapon or dangerous ordnance, etc., in a school safety zone, conveying or possessing a deadly weapon or dangerous ordnance in a courthouse, or discharging, transporting, or having a firearm while in or on a vessel, revised the new exemption in the House Version that specifies that the prohibitions do not apply to persons subject to and in compliance with the law's firearms requalification requirements (as modified by the bill) unless the person's appointing authority expressly specifies that the exemption does not apply, by limiting the exemption's application to so that it applies to persons subject to and in compliance with that requirement only if they also are employed in Ohio and are authorized to carry the specified types of weapons (R.C. 1547.69(H)(1)(b), 2923.121(B)(1)(b), 2923.122(D)(1)(b), and 2923.123(C)(2)(b)).

Regarding the prohibitions in the offense of "improperly handling firearms in a motor vehicle" that apply only to persons with a concealed carry license or temporary emergency concealed carry license, did the following:

(1) Concerning the existing provision that prohibits a licensee from transporting or having a loaded handgun in a motor vehicle unless it is done in a specified manner, retained the House Version's removal of the current "carry in plain sight" criterion but revised the entire provision so that it prohibits a licensee from transporting or possessing a loaded handgun in a motor vehicle unless: (a) the handgun is in a holster on the licensee's person (retains the House Version's removal of the current "in plain sight" requirement), (b) the handgun is in a closed case, bag, box, or other container that is in plain sight and that has a lid, a cover, or a closing mechanism with a zipper, snap, or buckle, which lid, cover, or closing mechanism must be opened for a person to gain access to the handgun, or (c) the handgun is securely encased by being stored in a closed, locked glove compartment or in a case (retains the House Version's removal of the current "in plain sight" requirement) that is locked (R.C. 2923.16(E)(1));

(2) Concerning the existing provision that prohibits a licensee who is in a motor vehicle that is stopped for a law enforcement purpose and is carrying a concealed handgun from failing to notify an approaching law enforcement officer of the license and the handgun: (a) expanded the prohibition so that it also applies to a licensee who is in a commercial motor vehicle that is stopped by an employee

of the Motor Carrier Enforcement Unit in the Department of Public Safety, Division of State Highway Patrol from failing to notify an approaching employee of the Unit of the license and the handgun, (b) increased the penalty for a violation of the prohibition, as expanded, by more than the increase provided in the House Version, and (c) provided a one-year suspension of the licensee's license (R.C. 2923.16(E)(3), (I), and (K));

(3) Concerning the existing provision that prohibits a licensee who is in a motor vehicle that is stopped for a law enforcement purpose and is carrying a concealed handgun from failing to remain in the vehicle while stopped or failing to keep the licensee's hands in plain sight while a law enforcement officer is approaching, provided a one-year suspension of the licensee's license for a misdemeanor violation of the prohibition (R.C. 2923.16(E)(4) and (I));

(4) Concerning the existing provision that prohibits a licensee who is in a motor vehicle that is stopped for a law enforcement purpose and is carrying a loaded handgun from failing to comply with a lawful order of a law enforcement officer given while the licensee is stopped: (a) listed as an example of the type of order contemplated a specific order to the licensee to keep his or her hands in plain sight, and (b) provided a two-year suspension of the licensee's license for a misdemeanor violation of the prohibition (R.C. 2923.16(E)(4) and (6) and (I));

(5) Revised the new exemption in the House Version that specifies that the prohibitions generally do not apply to persons subject to and in compliance with the law's firearms requalification requirements (as modified by the bill) unless the person's appointing authority expressly specifies that the exemption does not apply, by limiting the exemption's application so that it applies to persons subject to and in compliance with that requirement only if they also are employed in Ohio and are authorized to carry the specified types of weapons (R.C. 2923.16(F)(1)(b)).

(6) In the existing provisions related to the effect of a license that restate as an affirmative duty of a licensee some of the prohibitions in the offense of "improperly handling firearms in a motor vehicle" that apply only to licensees, conforms the language of the provisions to the actual language of the prohibitions and expands the provisions so that they also restate as an affirmative duty the expansion of the prohibition in the offense described in (2), above (R.C. 2923.126(A)).

Regarding the prohibitions in the offense of "improperly handling firearms in a motor vehicle" that apply to any person, did the following:

(1) Concerning the existing provision that prohibits a person from knowingly 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 and an exemption from that provision that currently applies to a licensee who is not in a prohibited place and has the handgun in a specified manner, retained the House Version's modification of the "carry in plain sight" criterion that must be satisfied under that exemption but revised the entire exemption so that it applies to a licensee if: (a) the handgun is in a holster on the licensee's person (retains the House Version's removal of the current "in plain sight" requirement), (b) the handgun is in a closed case, bag, box, or other container that is in plain sight and that has a lid, a cover, or a closing mechanism with a zipper, snap, or buckle, which lid, cover, or closing mechanism must be opened for a person to gain access to the handgun, or (c) the handgun is securely encased by being stored in a closed, locked glove compartment, or in a case (retains the House Version's removal of the current "in plain sight" requirement) that is locked (R.C. 2923.16(B) and (F)(4));

(2) Concerning the existing provision that prohibits a person from knowingly transporting or having a firearm in a motor vehicle, unless it is unloaded and is carried 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 that purpose, or in plain sight with the action open or the weapon stripped, or, if the firearm is of a type on which the action will not stay open or which cannot easily be stripped, in plain sight, modifies an exemption identical to the exemption described in (1), above, in the same manner as is described in that paragraph (R.C. 2923.16(C) and (F)(4));

(3) Concerning the provision that prohibits a person from transporting or having a loaded handgun in a motor vehicle if 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 prohibited concentration of alcohol: (a) removes a new provision that was included in the House Version of the bill and that provided that the prohibition did not apply if the person under the influence with the prohibited concentration has surrendered control of the handgun to a person who is not in violation of the prohibition and who possesses the handgun in a motor vehicle in an authorized manner, (b) retains language from the House Version of the bill that provides that an existing exemption from the prohibition for specified governmental officers, agents, and employees and law enforcement officers, when authorized to carry loaded or accessible firearms in motor vehicles and acting within the scope of their duties no longer applies to the prohibition, and that the new exemption described in (4) below, as revised by the committee, does not apply to the prohibition (R.C. 2923.16(D) and (F)(1)(a) and (5));

(4) Revised the new exemption in the House Version that specifies that the prohibitions described in (1) and (2), above, generally do not apply to persons subject to and in compliance with the law's firearms requalification requirements (as modified by the bill) unless the person's appointing authority expressly

specifies that the exemption does not apply, by limiting the exemption's application so that it applies to persons subject to and in compliance with that requirement only if they also are employed in Ohio and are authorized to carry the specified types of weapons (R.C. 2923.16(F)(1)(b)).

Added provisions that (R.C. 2923.126(F)): (1) specify that a "qualified retired peace officer" (defined in the bill) who possesses a "retired peace officer identification card" (defined in the bill) issued pursuant to the bill's provisions and a valid firearms requalification certification issued pursuant to the bill's provisions has the same right to carry a concealed handgun in Ohio as a person who was issued an Ohio concealed carry license and is subject to the same restrictions that apply to a person who carries a license so issued, (2) provide for the issuance of retired peace officer identification cards by public agencies of the state or of a political subdivision served by one or more peace officers if the issuance is in accordance with the particular agency's policies and procedures and if the retired peace officer in question satisfies specified criteria and describe the required firearms requalification, and (3) specify that, for purposes of reciprocity with other states, a qualified retired peace officer who possesses such a retired peace officer identification card and such a valid firearms requalification certification is considered to be a licensee in Ohio.

Increased to a felony of the first degree the penalty for the offense of "grand theft" when the property stolen is a firearm or dangerous ordnance and it is stolen from a federally licensed firearms dealer (R.C. 2913.01(MM) and 2913.02(B)(4)).

Provided an increased penalty for the offenses of "felonious assault," "aggravated assault," and "assault" committed against a BCII investigator (R.C. 2903.11, 2903.12, and 2903.13).

H0347-126.doc/ar

11/29/2006

