



Chairwoman Roegner, Vice-Chairman Lipps and Ranking Member Leland, thank you for the opportunity to provide sponsor testimony on House Bill 142.

In 2004, Governor Taft signed House Bill 12 into law, which regulated and restricted Ohioans ability to carry concealed weapons. This measure aimed to clarify Ohio law regarding concealed carry, and further sought to regulate and register Ohioans who chose to defend themselves, their families, and others from immediate danger. However, during the drafting of HB 12, several stipulations were included that attempted to weaken the intent of the law. In recent years, the General Assembly has taken steps to remove these harmful provisions from the Ohio Revised Code, and House Bill 142 would remove the duty to notify provision from current law.

Ohio Revised Code section 2923.12 currently states that concealed handgun licensees that are carrying or have a concealed weapon ready at hand and are stopped for a law enforcement purpose must promptly notify law enforcement that they have been issued a concealed handgun license, and have access to a concealed handgun. This section outlines a list of prohibitions in place against a concealed handgun licensee (CHL). House Bill 142 will strike the language that punishes otherwise law-abiding Ohioans that “fail to promptly inform any law enforcement officer who approaches the person after the person has been stopped that the person has been issued a concealed handgun license and that the person then is carrying a concealed handgun.” This language is vague, arbitrarily enforced and takes the control of the dialogue away from a law enforcement

officer and gives it to the subject of a law enforcement encounter. The penalty for violating this law is a first degree misdemeanor, which is the same level as the penalty for operating a vehicle under the influence.

I propose this legislation based upon three fundamental objections to current law. First, this section of the law is vague and subject to various interpretations. The Toledo Law Review included in my testimony cites a 2009 case when a CHL carrier was held at Taser-point while the officer questioned the suspect. During this high stress encounter between law enforcement and this citizen, the CHL carrier was not afforded the opportunity to speak to his license or firearms properly stored and located in his vehicle. However, as soon as the situation de-escalated, the individual informed the officer of the firearms as law enforcement searched the individual's vehicle. The officers, not being able to find charges to bring on the individual, after discussing this matter for nearly thirty minutes, decided to charge the CHL carrier with failure to notify. In this case, law enforcement officials decided the CHL carrier did not "promptly" inform them of the legally-stored weapons. The time between the initial stop and notification was 51 seconds. In this specific case, the vague language of the duty to notify provision only harmed the otherwise law-abiding citizen. Although ultimately being charged with improperly handling firearms in a motor vehicle, then being found not guilty by a jury of his peers, this CHL carrier had to carry the cost of defending his reputation and rights against the arbitrary enforcement of the duty to notify.

Another instance of duty to notify causing confusion and harm due to its vagueness occurred within the Canton Police Department's jurisdiction. As witnesses come to testify before this committee in support of House Bill 142, this case will be discussed in further detail.

Additionally, the duty to notify clause allows for this statute to be discriminately and arbitrarily enforced. Due to the CHL registration process I will describe in further detail later in my

testimony, an officer of the law may very well know through the Law Enforcement Automated Data System, more commonly referred to as LEADS, that the individual has a CHL. Due to the nature of this provision, the officer may approach the vehicle, knowing the individual has a CHL, conduct a routine traffic stop without mentioning a word about the potential of a firearm being in the vehicle, and then after completing the stop, charge this individual with violating the duty to notify clause. However, a majority of conversations between law enforcement and a CHL carrier begin with the officer asking about the license and firearm. This conversation can and should happen. But with this poorly written law, it allows for the above-mentioned scenario to legally occur. As members of the legislature, we cannot support language that threatens the liberty of law-abiding citizens.

Finally, there are no other places in the Ohio Revised Code which puts a duty to notify on any other individuals in the state of Ohio. This restricts the fundamental rights of concealed carry holders. To this day, a citizen has to take control of the dialogue for fear of not “promptly” notifying the officer within the timeframe that may or may not be prompt enough depending on the law enforcement official. This is not the way to ensure officer and civilian safety. Current law takes the control of the dialogue away from law enforcement and places it with the subject of the law enforcement action. With House Bill 142, I propose that the power of conversation is returned to the officer instead of forcing private citizens to lead that conversation. You will learn from the Canton case that an officer dominating the conversation, as members of law enforcement are instructed during training, never allows the CHL holder to meet the ambiguous provision of current law which force private citizens to take control of the dialogue.

Attorney Sean Maloney, a second amendment rights attorney and law enforcement advocate, suggests the first statement an officer should make when approaching a vehicle is, “are there any

guns, drugs or alcohol in the vehicle?” In this case, the officer has complete control of the situation. An officer in the rare case of not being connected to LEADS, would still have control of the dialogue and get notification of a concealed weapon. Obviously we know that individuals with malicious intent will lie. But that is the very reason why law enforcement officials are trained to approach a vehicle as if they are armed. Also, under this scenario, the law enforcement officer keeps control of the situation and it is the duty of the good and legal citizen with a CHL to respond in the affirmative. Why do we have a law on the books that strips the officer’s ability to control the dialogue of a law enforcement situation? Poor laws, such as the duty to notify, lead to poor actions by poor actors.

Opponents of the Second Amendment and those who seek to limit the ability of private citizens to carry firearms continually mention officer safety during this conversation. Every single one of us in this room care deeply about the men and women who have devoted their lives to protecting our communities from those who seek to break our laws and do us harm. I cannot thank these public servants enough for their service to our great state. With this in mind, we must not allow their bravery to be used as a pawn by others to stir up passion to cloud the logic of law. Current law only requires concealed carry licensees to “promptly” inform law enforcement of a firearm; it does not affect criminals. As succinctly stated in the Toledo Law Review, “In Ohio, there is no law requiring that those who are unlawfully carrying a concealed firearm divulge that fact to law enforcement. Perhaps this is because the legislature realizes a basic truth: laws only constrain the behaviors of the law-abiding.” We must stop criminalizing outstanding citizens of our society, and House Bill 142 accomplishes this vital mission.

To further understand the harmful nature of current law, we must discuss the steps undertaken by concealed carry holders to obtain a license. First, citizens must pay a licensed instructor for an

eight-hour class, where they review gun safety and the laws that are to be followed by concealed carry licensees. Once the course is completed, and they pass a written test, the applicant must show proof of course completion to the county sheriff's department. At that time, their information is processed through the National Instant Criminal Background Check System (NICS) conducted by the Federal Bureau of Investigation (FBI). If they are cleared through this federal background check, the sheriff will issue the license to the applicant, and the applicant is registered as a concealed carry licensee with the state and a fee is collected. When this registration occurs, the licensees' vehicle and driver's license is recorded and electronically tagged as someone who has been issued their concealed carry license. This information is immediately made available to law enforcement through LEADS.

Ohioans who desire to obtain a license must pay for the license and training, subject themselves to a federal background check, and register with the county sheriff's department. In summary, great Ohioans who have been exhaustively vetted are concealed carry holders.

Ohio was among the last states to pass concealed carry legislation. Over forty other states that permit concealed carry do not put the onus to notify on the citizen. It is time that Ohio stands for the constitutional rights of its citizens, and House Bill 142 is a great step in the right direction. My bill is based on the facts that concealed carry license holders are great and honorable citizens. According to FBI crime statistics, CHL carriers are among the safest citizens in the nation. They are fully exercising their second amendment rights by obtaining a license to carry a firearm for their legal defense. Our laws should support these great citizens in the state of Ohio, and not make them lesser citizens simply because they have exercised their rights.

There is no other category of citizen in the state of Ohio who has the duty to notify the state of anything. No other individual is forced to take control of dialogue between themselves and the

law enforcement officer. It is our job as elected representatives of the people to ensure we have clearly defined laws that uphold the freedoms and liberties of the citizens of the state of Ohio. That is why I urge you today to support House Bill 142 and protect the rights of safe, good, and legal citizens. Thank you for the opportunity to come before you today to discuss the importance of passing House Bill 142, and it would be my pleasure to answer any questions the committee may have at this time.