

**As Passed by the House**

**133rd General Assembly**

**Regular Session**

**2019-2020**

**Am. H. B. No. 86**

**Representative Plummer**

**Cosponsors: Representatives Becker, Koehler, Antani, Baldrige, Blessing, Butler, Callender, Carfagna, Carruthers, Cera, Cross, Cupp, Dean, Ginter, Green, Hambley, Holmes, A., Hood, Hoops, Jones, Jordan, Keller, Kick, Lang, Lipps, Manning, D., Manning, G., Merrin, Oelslager, Patton, Perales, Powell, Richardson, Riedel, Roemer, Rogers, Romanchuk, Ryan, Schaffer, Seitz, Smith, R., Smith, T., Stein, Stoltzfus, Vitale, Wiggam, Wilkin**

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**A BILL**

To amend section 2923.11 of the Revised Code to correct a drafting error in the definition of "dangerous ordnance" that resulted from Am. Sub. H.B. 228 of the 132nd General Assembly and to declare an emergency.

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That section 2923.11 of the Revised Code be amended to read as follows:

**Sec. 2923.11.** As used in sections 2923.11 to 2923.24 of the Revised Code:

(A) "Deadly weapon" means any instrument, device, or thing capable of inflicting death, and designed or specially adapted for use as a weapon, or possessed, carried, or used as a weapon.

(B) (1) "Firearm" means any deadly weapon capable of expelling or propelling one or more projectiles by the action of

an explosive or combustible propellant. "Firearm" includes an unloaded firearm, and any firearm that is inoperable but that can readily be rendered operable.

(2) When determining whether a firearm is capable of expelling or propelling one or more projectiles by the action of an explosive or combustible propellant, the trier of fact may rely upon circumstantial evidence, including, but not limited to, the representations and actions of the individual exercising control over the firearm.

(C) "Handgun" means any of the following:

(1) Any firearm that has a short stock and is designed to be held and fired by the use of a single hand;

(2) Any combination of parts from which a firearm of a type described in division (C) (1) of this section can be assembled.

(D) "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.

(E) "Automatic firearm" means any firearm designed or specially adapted to fire a succession of cartridges with a single function of the trigger.

(F) "Sawed-off firearm" means a shotgun with a barrel less than eighteen inches long, or a rifle with a barrel less than sixteen inches long, or a shotgun or rifle less than twenty-six inches long overall. "Sawed-off firearm" does not include any firearm with an overall length of at least twenty-six inches that is approved for sale by the federal bureau of alcohol, tobacco, firearms, and explosives under the "Gun Control Act of

1968," 82 Stat. 1213, 18 U.S.C. 921(a)(3), but that is found by 44  
the bureau not to be regulated under the "National Firearms 45  
Act," 68A Stat. 725 (1934), 26 U.S.C. 5845(a). 46

(G) "Zip-gun" means any of the following: 47

(1) Any firearm of crude and extemporized manufacture; 48

(2) Any device, including without limitation a starter's 49  
pistol, that is not designed as a firearm, but that is specially 50  
adapted for use as a firearm; 51

(3) Any industrial tool, signalling device, or safety 52  
device, that is not designed as a firearm, but that as designed 53  
is capable of use as such, when possessed, carried, or used as a 54  
firearm. 55

(H) "Explosive device" means any device designed or 56  
specially adapted to cause physical harm to persons or property 57  
by means of an explosion, and consisting of an explosive 58  
substance or agency and a means to detonate it. "Explosive 59  
device" includes without limitation any bomb, any explosive 60  
demolition device, any blasting cap or detonator containing an 61  
explosive charge, and any pressure vessel that has been 62  
knowingly tampered with or arranged so as to explode. 63

(I) "Incendiary device" means any firebomb, and any device 64  
designed or specially adapted to cause physical harm to persons 65  
or property by means of fire, and consisting of an incendiary 66  
substance or agency and a means to ignite it. 67

(J) "Ballistic knife" means a knife with a detachable 68  
blade that is propelled by a spring-operated mechanism. 69

(K) "Dangerous ordnance" means any of the following, 70  
except as provided in division (L) of this section: 71

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| (1) Any automatic or sawed-off firearm, zip-gun, or<br>ballistic knife;   | 72<br>73   |
| (2) Any explosive device or incendiary device;  | 74   |
| (3) Nitroglycerin, nitrocellulose, nitrostarch, PETN,<br>cyclonite, TNT, picric acid, and other high explosives; amatol,<br>tritonite, tetrytol, pentolite, pecretol, cyclotol, and other<br>high explosive compositions; plastic explosives; dynamite,<br>blasting gelatin, gelatin dynamite, sensitized ammonium nitrate,<br>liquid-oxygen blasting explosives, blasting powder, and other<br>blasting agents; and any other explosive substance having<br>sufficient brisance or power to be particularly suitable for use<br>as a military explosive, or for use in mining, quarrying,<br>excavating, or demolitions; | 75<br>76<br>77<br>78<br>79<br>80<br>81<br>82<br>83<br>84 |
| (4) Any firearm, rocket launcher, mortar, artillery piece,<br>grenade, mine, bomb, torpedo, or similar weapon, designed and<br>manufactured for military purposes, and the ammunition for that<br>weapon;   | 85<br>86<br>87<br>88                                     |
| (5) Any firearm muffler or suppressor;  | 89   |
| (6) Any combination of parts that is intended by the owner<br>for use in converting any firearm or other device into a<br>dangerous ordnance;   | 90<br>91<br>92   |
| <del>(7) Any firearm with an overall length of at least twenty-<br/>six inches that is approved for sale by the federal bureau of<br/>alcohol, tobacco, firearms, and explosives under the "Gun<br/>Control Act of 1968," 82 Stat. 1213, 18 U.S.C. 921(a)(3), but<br/>that is found by the bureau not to be regulated under the<br/>"National Firearms Act," 68A Stat. 725 (1934), 26 U.S.C.<br/>5845(a).</del>   | 93<br>94<br>95<br>96<br>97<br>98<br>99                   |
| (L) "Dangerous ordnance" does not include any of the  | 100  |

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| following:   | 101 |
| (1) Any firearm, including a military weapon and the             | 102 |
| ammunition for that weapon, and regardless of its actual age,    | 103 |
| that employs a percussion cap or other obsolete ignition system, | 104 |
| or that is designed and safe for use only with black powder;     | 105 |
| (2) Any pistol, rifle, or shotgun, designed or suitable          | 106 |
| for sporting purposes, including a military weapon as issued or  | 107 |
| as modified, and the ammunition for that weapon, unless the      | 108 |
| firearm is an automatic or sawed-off firearm;                    | 109 |
| (3) Any cannon or other artillery piece that, regardless         | 110 |
| of its actual age, is of a type in accepted use prior to 1887,   | 111 |
| has no mechanical, hydraulic, pneumatic, or other system for     | 112 |
| absorbing recoil and returning the tube into battery without     | 113 |
| displacing the carriage, and is designed and safe for use only   | 114 |
| with black powder;   | 115 |
| (4) Black powder, priming quills, and percussion caps            | 116 |
| possessed and lawfully used to fire a cannon of a type defined   | 117 |
| in division (L) (3) of this section during displays,             | 118 |
| celebrations, organized matches or shoots, and target practice,  | 119 |
| and smokeless and black powder, primers, and percussion caps     | 120 |
| possessed and lawfully used as a propellant or ignition device   | 121 |
| in small-arms or small-arms ammunition;                          | 122 |
| (5) Dangerous ordnance that is inoperable or inert and           | 123 |
| cannot readily be rendered operable or activated, and that is    | 124 |
| kept as a trophy, souvenir, curio, or museum piece; <u>i</u>     | 125 |
| (6) Any device that is expressly excepted from the               | 126 |
| definition of a destructive device pursuant to the "Gun Control  | 127 |
| Act of 1968," 82 Stat. 1213, 18 U.S.C. 921(a) (4), as amended,   | 128 |
| and regulations issued under that act; <u>i</u>                  | 129 |

(7) Any firearm with an overall length of at least twenty- 130  
six inches that is approved for sale by the federal bureau of 131  
alcohol, tobacco, firearms, and explosives under the "Gun 132  
Control Act of 1968," 82 Stat. 1213, 18 U.S.C. 921(a)(3), but 133  
that is found by the bureau not to be regulated under the 134  
"National Firearms Act," 68A Stat. 725 (1934), 26 U.S.C. 135  
5845(a). 136

(M) "Explosive" means any chemical compound, mixture, or 137  
device, the primary or common purpose of which is to function by 138  
explosion. "Explosive" includes all materials that have been 139  
classified as division 1.1, division 1.2, division 1.3, or 140  
division 1.4 explosives by the United States department of 141  
transportation in its regulations and includes, but is not 142  
limited to, dynamite, black powder, pellet powders, initiating 143  
explosives, blasting caps, electric blasting caps, safety fuses, 144  
fuse igniters, squibs, cordeau detonant fuses, instantaneous 145  
fuses, and igniter cords and igniters. "Explosive" does not 146  
include "fireworks," as defined in section 3743.01 of the 147  
Revised Code, or any substance or material otherwise meeting the 148  
definition of explosive set forth in this section that is 149  
manufactured, sold, possessed, transported, stored, or used in 150  
any activity described in section 3743.80 of the Revised Code, 151  
provided the activity is conducted in accordance with all 152  
applicable laws, rules, and regulations, including, but not 153  
limited to, the provisions of section 3743.80 of the Revised 154  
Code and the rules of the fire marshal adopted pursuant to 155  
section 3737.82 of the Revised Code. 156

(N) (1) "Concealed handgun license" or "license to carry a 157  
concealed handgun" means, subject to division (N) (2) of this 158  
section, a license or temporary emergency license to carry a 159  
concealed handgun issued under section 2923.125 or 2923.1213 of 160

the Revised Code or a license to carry a concealed handgun 161  
issued by another state with which the attorney general has 162  
entered into a reciprocity agreement under section 109.69 of the 163  
Revised Code. 164

(2) A reference in any provision of the Revised Code to a 165  
concealed handgun license issued under section 2923.125 of the 166  
Revised Code or a license to carry a concealed handgun issued 167  
under section 2923.125 of the Revised Code means only a license 168  
of the type that is specified in that section. A reference in 169  
any provision of the Revised Code to a concealed handgun license 170  
issued under section 2923.1213 of the Revised Code, a license to 171  
carry a concealed handgun issued under section 2923.1213 of the 172  
Revised Code, or a license to carry a concealed handgun on a 173  
temporary emergency basis means only a license of the type that 174  
is specified in section 2923.1213 of the Revised Code. A 175  
reference in any provision of the Revised Code to a concealed 176  
handgun license issued by another state or a license to carry a 177  
concealed handgun issued by another state means only a license 178  
issued by another state with which the attorney general has 179  
entered into a reciprocity agreement under section 109.69 of the 180  
Revised Code. 181

(O) "Valid concealed handgun license" or "valid license to 182  
carry a concealed handgun" means a concealed handgun license 183  
that is currently valid, that is not under a suspension under 184  
division (A)(1) of section 2923.128 of the Revised Code, under 185  
section 2923.1213 of the Revised Code, or under a suspension 186  
provision of the state other than this state in which the 187  
license was issued, and that has not been revoked under division 188  
(B)(1) of section 2923.128 of the Revised Code, under section 189  
2923.1213 of the Revised Code, or under a revocation provision 190  
of the state other than this state in which the license was 191

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| issued.  | 192   |
| (P) "Misdemeanor punishable by imprisonment for a term exceeding one year" does not include any of the following:  | 193<br>194  |
| (1) Any federal or state offense pertaining to antitrust violations, unfair trade practices, restraints of trade, or other similar offenses relating to the regulation of business practices;  | 195<br>196<br>197<br>198  |
| (2) Any misdemeanor offense punishable by a term of imprisonment of two years or less.   | 199<br>200  |
| (Q) "Alien registration number" means the number issued by the United States citizenship and immigration services agency that is located on the alien's permanent resident card and may also be commonly referred to as the "USCIS number" or the "alien number."  | 201<br>202<br>203<br>204<br>205   |
| (R) "Active duty" has the same meaning as defined in 10 U.S.C. 101.  | 206<br>207  |
| <b>Section 2.</b> That existing section 2923.11 of the Revised Code is hereby repealed.  | 208<br>209  |
| <b>Section 3.</b> The purpose of this act is to correct an amendment to section 2923.11 of the Revised Code made by Am. Sub. H.B. 228 of the 132nd General Assembly by relocating a provision that inadvertently was located in division (K) of that section but that was intended to have been located in division (L) of that section. It is the intent of the General Assembly that a firearm with an overall length of at least twenty-six inches that is approved for sale by the federal bureau of alcohol, tobacco, firearms, and explosives under the "Gun Control Act of 1968," but that is found by the bureau not to be regulated under the "National Firearms Act," is not to be | 210<br>211<br>212<br>213<br>214<br>215<br>216<br>217<br>218<br>219<br>220 |



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| considered dangerous ordnance under Ohio law.                    | 221 |
| <b>Section 4.</b> The amendments to section 2923.11 of the       | 222 |
| Revised Code in this act apply retroactively to any civil or     | 223 |
| criminal proceeding based on conduct that occurred on or after   | 224 |
| March 28, 2019, which is the effective date of Am. Sub. H.B. 228 | 225 |
| of the 132nd General Assembly, and prior to the effective date   | 226 |
| of this act.   | 227 |
| <b>Section 5.</b> The amendments to section 2923.11 of the       | 228 |
| Revised Code in this act take effect on March 28, 2019, which is | 229 |
| the effective date of Am. Sub. H.B. 228 of the 132nd General     | 230 |
| Assembly, or on the effective date of this section, whichever is | 231 |
| later.   | 232 |
| <b>Section 6.</b> This act is an emergency measure necessary for | 233 |
| the immediate preservation of the public peace, health, and      | 234 |
| safety. The reason for the emergency is to relocate a provision  | 235 |
| that inadvertently was located in the wrong division of a        | 236 |
| section of law. Therefore, this act goes into immediate effect.  | 237 |