

As Reported by the House Committee on Federalism

133rd General Assembly

Regular Session

2019-2020

Am. H. B. No. 86

Representative Plummer

Cosponsors: Representatives Becker, Koehler

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 the bureau not to be regulated under the "National Firearms Act," 68A Stat. 725 (1934), 26 U.S.C. 5845(a).

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| (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 pistol, that is not designed as a firearm, but that is specially adapted for use as a firearm; | 49 50 51 |
| (3) Any industrial tool, signalling device, or safety device, that is not designed as a firearm, but that as designed is capable of use as such, when possessed, carried, or used as a firearm. | 52 53 54 55 |
| (H) "Explosive device" means any device designed or specially adapted to cause physical harm to persons or property by means of an explosion, and consisting of an explosive substance or agency and a means to detonate it. "Explosive device" includes without limitation any bomb, any explosive demolition device, any blasting cap or detonator containing an explosive charge, and any pressure vessel that has been knowingly tampered with or arranged so as to explode. | 56 57 58 59 60 61 62 63 |
| (I) "Incendiary device" means any firebomb, and any device designed or specially adapted to cause physical harm to persons or property by means of fire, and consisting of an incendiary substance or agency and a means to ignite it. | 64 65 66 67 |
| (J) "Ballistic knife" means a knife with a detachable blade that is propelled by a spring-operated mechanism. | 68 69 |
| (K) "Dangerous ordnance" means any of the following, except as provided in division (L) of this section: | 70 71 |
| (1) Any automatic or sawed-off firearm, zip-gun, or ballistic knife; | 72 73 |
| (2) Any explosive device or incendiary device; | 74 |

(3) Nitroglycerin, nitrocellulose, nitrostarch, PETN, 75
cyclonite, TNT, picric acid, and other high explosives; amatol, 76
tritonite, tetrytol, pentolite, pecretol, cyclotol, and other 77
high explosive compositions; plastic explosives; dynamite, 78
blasting gelatin, gelatin dynamite, sensitized ammonium nitrate, 79
liquid-oxygen blasting explosives, blasting powder, and other 80
blasting agents; and any other explosive substance having 81
sufficient brisance or power to be particularly suitable for use 82
as a military explosive, or for use in mining, quarrying, 83
excavating, or demolitions; 84

(4) Any firearm, rocket launcher, mortar, artillery piece, 85
grenade, mine, bomb, torpedo, or similar weapon, designed and 86
manufactured for military purposes, and the ammunition for that 87
weapon; 88

(5) Any firearm muffler or suppressor; 89

(6) Any combination of parts that is intended by the owner 90
for use in converting any firearm or other device into a 91
dangerous ordnance; 92

~~(7) Any firearm with an overall length of at least twenty-~~ 93
~~six inches that is approved for sale by the federal bureau of~~ 94
~~alcohol, tobacco, firearms, and explosives under the "Gun-~~ 95
~~Control Act of 1968," 82 Stat. 1213, 18 U.S.C. 921(a)(3), but~~ 96
~~that is found by the bureau not to be regulated under the~~ 97
~~"National Firearms Act," 68A Stat. 725 (1934), 26 U.S.C.~~ 98
~~5845(a).~~ 99

(L) "Dangerous ordnance" does not include any of the 100
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; 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; 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
issued. 192

(P) "Misdemeanor punishable by imprisonment for a term 193

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| exceeding one year" does not include any of the following: | 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; | 195 196 197 198 |
| (2) Any misdemeanor offense punishable by a term of imprisonment of two years or less. | 199 200 |
| (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." | 201 202 203 204 205 |
| (R) "Active duty" has the same meaning as defined in 10 U.S.C. 101. | 206 207 |
| Section 2. That existing section 2923.11 of the Revised Code is hereby repealed. | 208 209 |
| Section 3. 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 considered dangerous ordnance under Ohio law. | 210 211 212 213 214 215 216 217 218 219 220 221 |
| Section 4. 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

Section 5. 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

Section 6. 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