



Sub. H.B. 274*

124th General Assembly

(As Reported by S. Judiciary on Civil Justice)

Reps. Aslanides, Hollister, Latta, Evans, Buehrer, Core, Sulzer, Carey, Metzger, Krupinski, Faber, Reinhard, Peterson, Schuring, Hagan, Willamowski, Distel, Carmichael, Trakas, Latell, Clancy, Calvert, Cates, Williams, Roman, Carano, Niehaus, Womer Benjamin, Hartnett, Coates, Kearns, Webster, Sullivan, Sferra, Husted, Setzer, Ogg, Hughes, Grendell, Gilb, Collier, Wolpert, Seitz, Callender, Young, Schmidt, Hoops, Flowers, Manning, Rhine, Stapleton, DeWine, Lendrum, Blasdel, Seaver, Schaffer

Sen. Jacobson

BILL SUMMARY

- Specifies requirements for eligibility for a license to carry a concealed handgun and methods by which an applicant may establish competence in handling a handgun.
- Sets forth a form for an application for a license to carry a concealed handgun.
- Requires the Attorney General to prescribe application forms and license forms, and to prescribe a fee for a license and the renewal of a license to carry a concealed handgun.
- Requires the sheriff receiving an application for a license to carry a concealed handgun to conduct a criminal records check of the applicant for the license.
- Specifies locations at which a concealed handgun licensee is not authorized to carry a concealed handgun.

** This analysis was prepared before the report of the Senate Judiciary on Civil Justice Committee appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete.*

- Grants qualified immunity from civil liability to certain public officers and employees performing their licensing functions and to firearms safety instructors and public and private employers under certain circumstances.
- Specifies circumstances in which a concealed handgun licensee is exempt from certain prohibitions related to weapons.
- Reduces the penalties for the offense of carrying a concealed weapon if the weapon involved is a handgun, the person either presents to the law enforcement agency employing arresting officer or if the person met the criteria for obtaining a license to carry a concealed weapon, other than the residency and the training requirements.
- Establishes new exemptions and affirmative defenses to the offenses of carrying concealed weapons, the offense of illegal possession of a firearm in liquor permit premises, illegal possession or control of a deadly weapon or dangerous ordnance in a courthouse, the prohibition against transporting or having a firearm in a vessel except under certain circumstances, and the offense of improperly handling firearms in a motor vehicle.
- Increases the penalty for having weapons while under disability.
- Requires a federally licensed firearms dealer, at the time of sale of a firearm, to offer for sale to the purchaser of the firearm a trigger lock, gun lock, or gun locking device appropriate for that firearm, requires the Office of Criminal Justice Services to prepare a poster and brochure that summarizes this requirement and furnish copies of the poster and brochure free of charge to each federally licensed firearms dealer in Ohio, and requires each dealer to post the poster in a conspicuous location in the dealer's business.
- Creates the offenses of falsification of a concealed handgun license, possessing a revoked or suspended concealed handgun license, and falsification to obtain a concealed handgun license.
- Contains a statement of legislative intent with respect to the bill's concealed handgun licensing provisions.

- Prohibits a municipal corporation from adopting or continuing in existence any ordinance, and a township from adopting or continuing in existence, any resolution that is in conflict with the bill's concealed handgun licensing scheme.
- Increases from a felony of the fourth degree to a felony of the third degree the penalty for theft of a firearm or dangerous ordnance, creates a presumption in favor of the court imposing a prison term for the offense, and requires the offender to serve a prison term imposed for the offense consecutively to any other prison term or mandatory prison term previously or subsequently imposed upon the offender.

TABLE OF CONTENTS

Overview.....	5
Obtaining and renewing a license to carry a concealed handgun.....	5
Making the application	5
Criminal records check.....	8
When license must be issued	9
Denial of application; appeal	12
Suspension of the application process.....	12
Postponement of issuance of license.....	12
Replacement of lost or destroyed license.....	12
License renewal	13
Privileges and duties of a licensee.....	13
Procedure for contesting the denial of a license based on criminal records check.....	17
Suspension and revocation of license	17
Suspension of a license.....	17
Revocation of a license.....	18
License data available through LEADS	19
Civil immunity	19
Miscellaneous provisions relating to sheriff; offenses.....	21
Sheriff's licensure records are not public records.....	21
Reports to Attorney General	21
Sheriff handgun licensure fund.....	21
Offenses with respect to licenses.....	22
Possessing a revoked or suspended concealed handgun license	22
Falsification of a concealed handgun license	22
Falsification to obtain a concealed handgun license.....	22
Posting of signs in specified areas	23
Duties of the Attorney General	25

Application and license forms	25
Firearms laws pamphlet.....	26
License application and renewal fee	26
Timeframe for adopting rules and making forms and pamphlets available.....	26
Statistics and reports	27
Reciprocity agreements	27
Carrying a concealed weapon.....	27
Existing law.....	27
Operation of the bill	28
Possession of a firearm in a liquor permit premises	30
Existing law.....	30
Operation of the bill	31
Conveyance of a deadly weapon into a courthouse	31
Existing law.....	31
Operation of the bill	32
Improperly handling firearms in a motor vehicle.....	33
Existing law.....	33
Operation of the bill	34
Improper use or handling of firearms in a vessel	34
Existing law.....	34
Operation of the bill	35
Having weapons while under disability.....	36
Existing law.....	36
Operation of the bill	37
Trigger locks to be offered at time of purchase of firearm	37
Access to sealed records	37
Existing law.....	37
Operation of the bill	37
Private investigators and security providers	38
Existing law.....	38
Operation of the bill	38
Theft of a firearm or dangerous ordnance	38
Existing law.....	38
Operation of the bill	39
Background	39
Licensing scheme is law of general nature.....	41
Statement of legislative intent	41
Severability clause.....	42

CONTENT AND OPERATION

Overview

The bill establishes a program in which sheriffs are authorized to issue licenses to persons to carry concealed handguns.¹ The Attorney General (AG) is required to adopt forms for the licensing program and to maintain records with respect to the licensing program.

Obtaining and renewing a license to carry a concealed handgun

Making the application

Upon the request of a person who wishes to obtain a license to carry a concealed handgun or to renew a license of that nature, a sheriff must provide to the person free of charge an application form as prescribed by the AG and a copy of the pamphlet prepared by the AG explaining Ohio firearms laws and instructing the reader in dispute resolution (R.C. 2923.125(A)). The applicant must submit the completed application form and all of the following to the sheriff of the county in which the applicant resides or to the sheriff of any county adjacent to the county in which the applicant resides (R.C. 2923.125(B)):

(1) A nonrefundable license fee in the amount prescribed by the AG (see "**Duties of the Attorney General--License application and renewal fee**," below), except that the sheriff must waive the payment of the license fee in connection with an initial or renewal application for a license to carry a concealed handgun that is submitted by an applicant who is a retired state highway patrol trooper, a retired peace officer, a retired park officer, forest officer, preserve officer, wildlife officer, or state watercraft officer of the Department of Natural Resources (hereafter, "DNR officers"), or a retired federal law enforcement officer who, prior to retirement, was authorized under federal law to carry a firearm in the course of duty, unless the retired peace officer, DNR officer, or federal law enforcement officer retired as the result of a mental disability;

(2) A color photograph of the applicant that was taken within 30 days prior to the date of the application;

(3) One or more of the following competency certifications. The competency certifications described in paragraphs (3)(a), (b), (c), (e), and (f) must reflect that within the three years immediately preceding the application the

¹ "Handgun" means any firearm designed to be fired while being held in one hand (R.C. 2923.11(C)).

applicant has performed that to which the competency certification relates; the competency certification described in paragraph (3)(d) must reflect that *the applicant currently is participating in the military service to which the competency certificate relates or within the six years immediately preceding the application the applicant has received the honorable discharge or retired from the employment to which the competency certificate relates.*

(a) An original or photocopy of a certificate of completion of a firearms safety, training, or requalification or firearms safety instructor course, class, or program that was offered by or under the auspices of the National Rifle Association and that complies with the requirements described below in **'Course requirements'**;

(b) An original or photocopy of a certificate of completion of a firearms safety, training, or requalification or firearms safety instructor course, class, or program that was open to members of the general public, that utilized qualified instructors who were certified by the National Rifle Association, the Executive Director of OPOTC, or a governmental official or entity of another state, that was offered by or under the auspices of a law enforcement agency of Ohio, another state, or the United States, a public or private college, university, or other similar postsecondary educational institution located in Ohio or another state, a firearms training school located in Ohio or another state, or another type of public or private entity or organization located in Ohio or another state, and that complies with the requirements described below in **"Course requirements"**;

(c) An original or photocopy of a certificate of completion of a state, county, municipal, or Department of Natural Resources peace officer training school approved by the Executive Director of OPOTC and that complies with the requirements described below in **"Course requirements,"** or the applicant has satisfactorily completed and been issued a certificate of completion of a basic firearms training program, a firearms requalification training program, or another basic training program described in R.C. 109.78 or 109.801 that complies with those requirements;

(d) A document that evidences both of the following: (i) that the applicant is an active or reserve member of the armed forces of the United States, was honorably discharged from military service in the active or reserve armed forces of the United States, or is a retired state highway patrol trooper, is a retired peace officer, a retired DNR officer, or a retired federal law enforcement officer who, prior to retirement, was authorized under federal law to carry a firearm in the course of duty (provided that the retired peace officer, DNR officer, or federal law enforcement officer must not have retired as the result of a mental disability), (ii) that, through participation in that military service or through the former employment, the applicant acquired experience with handling handguns or other

firearms, and the experience so acquired was equivalent to training that the applicant could have acquired in a course, class, or program described above in the paragraphs (3)(a), (b), or (c);

(e) A certificate or another similar document that evidences satisfactory completion of a firearms training, safety, or requalification or firearms safety instructor course, class, or program that is not otherwise described above in paragraphs (3)(a), (b), (c), or (d), that was conducted by an instructor who was certified by an official or entity of the government of Ohio, another state, or the United States or by the National Rifle Association and that complies with the requirements described below in "Course requirements";

(f) An affidavit that attests to the applicant's satisfactory completion of a course, class, or program described above in paragraph (3)(a), (b), (c), or (e) and that is subscribed by the applicant's instructor or an authorized representative of the entity that offered the course, class, or program or under whose auspices the course, class, or program was offered.

(4) A set of fingerprint impressions of the applicant on a BCII prescribed standard impression sheet.

Course requirements. Each course, class, or program described above in paragraphs (3)(a), (b), (c), or (e) must include at least 12 hours of training in the safe handling and use of a firearm that must include all of the following: (1) the ability to name, explain, and demonstrate the rules for safe handling of a handgun and proper storage practices for handguns and ammunition, (2) the ability to demonstrate and explain how to handle ammunition in a safe manner, (3) the ability to demonstrate the knowledge, skills, and attitude necessary to shoot a handgun in a safe manner, and (4) range time, live fire training, and gun handling training from the two-handed and one-handed standing and shooting positions.

To satisfactorily complete the course, class, or program described above in paragraphs (3)(a), (b), (c), or (e), the applicant is required to pass a competency examination that must include both a written section and a physical demonstration section. The written section must test the applicant's ability to name and explain the rules for the safe handling of a handgun and proper storage practices for handguns and ammunition. The physical demonstration section must consist of demonstration competence in the use of a handgun of the type that the applicant expects to carry concealed and in the rules for safe handling and storage of a handgun and a physical demonstration of the attitude necessary to shoot a handgun in a safe manner.

The competency certification described in those paragraphs must be dated and must attest that the course, class, or program the applicant successfully

completed met the above requirements and that the applicant passed the competency examination. (R.C. 2923.125(G)(1) to (3).)

Renewed competency certification. A person who has received a competency certification or renewed competency certification within the preceding six years may obtain a renewed competency certification from an entity that offers a course, class, or program described above in paragraphs (3)(a), (b), (c), or (e) by passing a competency examination of the type described above. In these circumstances, the person is not required to attend the course, class, or program in order to be eligible to take the competency examination. If more than six years has elapsed since the person last received a competency certification or a renewed competency certification, in order for the person to be given a renewed competency certification the person must both satisfactorily complete a course, class, or program described above in paragraph (3)(a), (b), (c), or (e) and pass a competency examination. A renewed competency certification must be dated and must attest that the applicant passed the competency examination and, if applicable, that the person successfully completed a course, class, or program that met the requirements described above in "**Course requirements.**" (R.C. 2923.125(G)(4).)

Criminal records check

Upon receipt of an applicant's completed application form, supporting documentation, and, if not waived, license fee, or upon receipt of an application to renew a license, a new color photograph taken within 30 days prior to the application, renewed competency certification, if needed, and, if not waived, the license fee, a sheriff must conduct or cause to be conducted a criminal records check of the applicant in the following manner (R.C. 311.41(A) and 2923.125(C) and (F)):

(1) The sheriff must request the Bureau of Criminal Identification and Investigation (BCII) to conduct a criminal records check of the applicant, and if necessary, request the Superintendent of BCII to obtain information from the FBI as part of the criminal records check for the applicant. In order to conduct the criminal records check, the sheriff must obtain from the applicant a completed standard fingerprint impression sheet (prescribed by BCII) and submit it, along with the applicant's social security number, to the Superintendent. The sheriff is prohibited from retaining the applicant's fingerprints as part of the application.

(2) If at any time the applicant decides not to continue with the application process, the sheriff immediately must cease any investigation that is being conducted as described in paragraph (1), above. However, the sheriff must continue that investigation if, at the time of the applicant's decision not to continue

with the application process, the sheriff had determined that the applicant then was engaged in activity of a criminal nature.

If the criminal records check does not indicate that the applicant fails to meet the eligibility criteria, the sheriff and any source the sheriff used in conducting the criminal records check, within 20 days after the license is issued, must destroy or cause a designated employee to destroy all records, including the fingerprint impressions, other than the application that were made in connection with the criminal records check. If the criminal records check indicates that the applicant failed to meet the licensing eligibility criteria, the sheriff and any source that the sheriff used in conducting the criminal records check is prohibited from destroying or causing to be destroyed any records, including the fingerprint impressions, relating to the application either until the time for filing an appeal has expired or, if the denial of the application was appealed, until the appeal has been resolved. At this point, the fingerprint impressions must be destroyed within 20 days. (R.C. 311.41(B).)

With respect to a particular criminal records check, the bill prohibits a sheriff, employee of a sheriff designated by the sheriff to destroy records, the source the sheriff used in conducting the criminal records check, or employee designated by the chief operating officer of the source to destroy records from failing to destroy or cause to be destroyed within the applicable 20-day period all records other than the application for the issuance or renewal of a license to carry a concealed handgun made in connection with the particular criminal records check. A person who violates this prohibition is guilty of failure to destroy records, a misdemeanor of the first degree. (R.C. 311.41(C) and (D).)

When license must be issued

Except as specified below, within 45 days after receipt of an applicant's completed application form, the supporting documentation, and, if not waived, license fee, a sheriff must issue to the applicant a license to carry a concealed handgun that expires four years after the date of issuance if all of the following apply (R.C. 2923.125(D)(1)):

- (1) The applicant has been a resident of Ohio for at least 45 days and a resident of the county in which the person seeks the license or a county adjacent to the county in which the person seeks the license for at least 30 days.
- (2) The applicant is at least 21 years of age.
- (3) The applicant is not a fugitive from justice.

(4) The applicant is not under indictment for, has not been convicted of, and has not pleaded guilty to a felony and has not been adjudicated a delinquent child for an act that would be a felony if committed by an adult.

(5) The applicant is not under indictment for or otherwise charged with, has not been convicted of, and has not pleaded guilty to an offense under the Drug Offense Law, Controlled Substances Law, or Pharmacists/Dangerous Drugs Law that involves the illegal possession, use, sale, administration, or distribution of or trafficking in a drug of abuse and has not been adjudicated a delinquent child for an act that would be an offense of that nature if committed by an adult.

(6) The applicant is not under indictment for or otherwise charged with a misdemeanor that is an offense of violence (other than resisting arrest or assault when the victim is a peace officer) or that is a misdemeanor violation of the new offense of possessing a revoked or suspended handgun license (see "**Offenses with respect to licenses--Possessing a revoked or suspended concealed handgun license**," below), has not been convicted of or pleaded guilty to a misdemeanor of that nature within three years of the date of the application, and has not been adjudicated a delinquent child within three years of the date of the application for an act that would be a misdemeanor of that nature.²

² "Offense of violence," as defined in existing law (R.C. 2901.01(A)(9)), means any of the following offenses:

(a) Aggravated murder, murder, voluntary manslaughter, involuntary manslaughter, felonious assault, aggravated assault, assault (a misdemeanor unless certain conditions are met), permitting child abuse, aggravated menacing (misdemeanor), menacing by stalking (a misdemeanor unless the offender previously was convicted of menacing by stalking the same victim or one of eight other conditions apply), menacing (misdemeanor), kidnapping, abduction, extortion, rape, sexual battery, gross sexual imposition, aggravated arson, arson (a misdemeanor under certain circumstances), aggravated robbery, robbery, aggravated burglary, burglary under certain circumstances, inciting to violence, aggravated riot, riot (misdemeanor), inducing panic (a misdemeanor except when the violation results in physical harm to a person or any one of several other conditions apply), domestic violence (a misdemeanor unless the offender previously was convicted of domestic violence or certain assault or stalking offenses involving a household member), intimidation, intimidation of crime victim or witness (a misdemeanor under certain circumstances), escape (a misdemeanor under certain circumstances), and improperly discharging a firearm at or into a habitation or in a school safety zone, endangering children under certain circumstances (a misdemeanor under certain circumstances), and the former offense of felonious sexual penetration;

(b) A violation of an existing or former municipal ordinance or law of Ohio, any other state, or the United States, substantially equivalent to any offense listed in (a);

(7) The applicant is not under indictment for or otherwise charged with resisting arrest, has not been convicted of or pleaded guilty to resisting arrest within ten years of the date of the application, and has not been adjudicated a delinquent child for resisting arrest within ten years of the date of the application.

(8) The applicant is not under indictment for or otherwise charged with an assault or negligent assault and either of the following applies:

(a) The applicant has not been convicted of or pleaded guilty to assault, or been adjudicated a delinquent child for committing an act that would be assault if committed by an adult, when the victim of the violation is a peace officer, regardless of whether the applicant was sentenced under the Revised Code's enhanced penalty provisions for assault.

(b) Except as otherwise provided in paragraph (8)(a), the applicant, within five years of the date of the application, has not been convicted of, pleaded guilty to, or been adjudicated a delinquent child for committing two or more violations of R.C. 2903.13 (assault) or 2903.14 (negligent assault).

(9) The applicant is not currently under an adjudication of mental incompetence and has not been involuntarily institutionalized or hospitalized pursuant to court order (see **COMMENT**).

(10) The applicant is not currently subject to a temporary protection order issued pursuant to R.C. 2919.26 as a pretrial condition of release of an alleged domestic violence offender or a temporary or permanent civil protection order issued pursuant to R.C. 3113.31 upon a petition for relief from domestic violence.

(11) The applicant certifies that the applicant desires a legal means to carry a concealed handgun for defense of the applicant or a member of the applicant's family while engaged in lawful activity.

(12) The applicant submits a competency certification of the type described above under paragraph (3) of "**Making the application.**"

(c) An offense, other than a traffic offense, under an existing or former municipal ordinance or law of Ohio, any other state, or the United States, committed purposely or knowingly, and involving physical harm to persons or a risk of serious physical harm to persons;

(d) A conspiracy or attempt to commit, or complicity in committing, any offense described in (a), (b), or (c).

The sheriff issuing a license is required to place on the license a unique combination of letters and numbers identifying the license in accordance with the procedure prescribed by the AG as described below under "**Duties of the Attorney General**" (R.C. 2923.125(D)(2)).

Denial of application; appeal

If the sheriff denies an application because the applicant does not satisfy the criteria described above in "**When license must be issued**," the sheriff must specify the grounds for the denial in a written notice to the applicant. The applicant may appeal the denial pursuant to the Administrative Procedure Act. If the court enters a judgment sustaining the sheriff's refusal to grant to the applicant a license to carry a concealed handgun, the applicant may file a new application beginning one year after the judgment is entered. If the court enters a judgment in favor of the applicant, that judgment does not restrict the authority of a sheriff to suspend or revoke the license or to refuse to renew the license for any proper cause that may occur after the date the judgment is entered. In the appeal, the court has full power to dispose of all costs. (R.C. 2923.125(D)(3).)

Suspension of the application process

If the sheriff with whom an application for a license to carry a concealed handgun was filed becomes aware that the applicant has been arrested for or otherwise charged with an offense that would disqualify the applicant from holding the license, the sheriff must suspend the processing of the application until the disposition of the case arising from the arrest or charge (R.C. 2923.125(D)(4)).

Postponement of issuance of license

If the sheriff determines that the applicant is a resident of the county in which the applicant seeks the license or of an adjacent county but does not yet meet the residency requirements, the sheriff must not deny the license because of the residency requirements but cannot issue the license until the applicant meets those requirements (R.C. 2923.125(D)(5)).

Replacement of lost or destroyed license

If a license to carry a concealed handgun is lost or is destroyed, the licensee may obtain from the sheriff who issued that license a replacement license upon the payment of \$15 and the submission of an affidavit attesting to the loss or destruction of the license. The sheriff is required to place on the replacement license a combination of identifying numbers different from the combination on the license that was replaced. (R.C. 2923.125(E).)

License renewal

A licensee who wishes to renew a license to carry a concealed handgun must do so within 45 days after the expiration date of the license by filing with the sheriff of the county in which the applicant resides or with the sheriff of an adjacent county an application for renewal of the license (obtained from the sheriff), a new color photograph of the licensee that was taken within 30 days prior to the date of the renewal application, a new set of fingerprint impressions, and a nonrefundable license renewal fee in the amount prescribed by the OPOTC unless the fee is waived. The licensee also must submit a competency certification or renewed competency certification that is no older than six years.

Upon receipt of a completed renewal application, color photograph, and license renewal fee unless the fee is waived, a sheriff must conduct or cause to be conducted a criminal records check as described in "**Criminal records check**," above, and, within 45 days, must renew the license if the sheriff determines that the applicant continues to satisfy the eligibility requirements, except that the applicant need only submit a renewed competency certification in the circumstances described in "**Renewed competency certification**," above. A renewed license is valid for four years from the date of issuance and is subject to the provisions described in "**Replacement of lost or destroyed license**," above, and "**Privileges and duties of a licensee**," below, and to the suspension and revocation provisions. When the circumstances described in "**Denial of application--generally**," "**Suspension of the application process**," "**Denial of license for reasons not based on criminal records check**," and "**Postponement of issuance of license**," above, apply to a requested license renewal, the sheriff must comply with the requirements specified in those circumstances. (R.C. 2923.125(F).)

Privileges and duties of a licensee

A license to carry a concealed handgun is valid for four years from the date of issuance. A licensee must be granted a 45-day grace period after the license expires during which the license remains valid. Except in the places and circumstances specified below, the licensee may carry a concealed handgun anywhere in Ohio if the licensee also carries a valid license and valid identification when the licensee is in actual possession of a concealed handgun. The licensee must give notice of any change in the licensee's residence address to the sheriff who issued the license within 45 days after that change. If a licensee is arrested for the violation of any Revised Code section or a municipal ordinance, the bill requires the licensee to promptly inform the arresting officer that the licensee has been issued a license to carry a concealed handgun under the bill. If a law enforcement officer approaches a licensee, and if the licensee is carrying a concealed handgun at the time the officer approaches the licensee, the licensee must promptly inform the officer that the licensee has been issued a license to

carry a concealed handgun and that the licensee currently is carrying a concealed handgun. A peace officer who arrests a licensee for an offense that would require the license to be suspended or revoked under the bill must promptly enter the fact of this arrest into the Law Enforcement Automated Database System (LEADS). Under the bill, Ohio peace officers and State Highway Patrol troopers who have arrest authority under any provision of the Revised Code have the same rights to carry a concealed handgun as does a licensee. (R.C. 2923.126(A).)

A valid license to carry a concealed handgun does not authorize the licensee to carry a concealed handgun into any of the following places³ (R.C. 2923.126(B)):

(1) A police station, sheriff's office, or state highway patrol station, premises controlled by BCII, a state correctional institution, jail, workhouse, other detention facility, an airport passenger terminal, an aircraft, or a state institution for the care, treatment, and training of mentally ill or mentally retarded persons;

(2) A school safety zone, in violation of the prohibition against illegal conveyance or possession of a deadly weapon or dangerous ordnance in a school safety zone;

(3) A courthouse or another building or structure in which a courtroom is located, in violation of the prohibition against illegal conveyance of a deadly weapon or dangerous ordnance into a courthouse or illegal possession or control of a deadly weapon or dangerous ordnance in a courthouse;

(4) Any room in which liquor is being dispensed in premises for which a D permit has been issued under the Liquor Permit Law, in violation of the prohibition against illegal possession of a firearm in liquor permit premises;

(5) The premises of any public or private college, university, or other institution of higher education, unless the handgun is in a locked motor vehicle or the licensee is in the immediate process of placing the handgun in a locked motor vehicle;

(6) Any church, synagogue, mosque, or other place of worship, unless the church, synagogue, mosque, or other place of worship posts or permits otherwise;

(7) A child day-care center or a type A, a type B, or type C family day-care home;⁴

³ "Valid license" means a license to carry a concealed handgun that has been issued under the bill's provisions, that is currently valid and is not under suspension, and that has not been revoked (R.C. 2923.124(H)).

⁴ "Child day-care center" means any place in which child day-care or publicly funded child day-care is provided for 13 or more children at one time or any place that is not the permanent residence of the licensee or administrator in which child day-care or publicly funded child day-care is provided for 7 to 12 children at one time. (R.C. 2923.124(I) by reference to R.C. 5104.01(L)--not in the bill.) "Child day-care center" does not include any of the following: (1) a place located in and operated by a hospital in which the needs of children are administered to, if all the children whose needs are being administered to are monitored under the on-site supervision of a licensed physician or a licensed registered nurse, and the services are provided only for children who, in the opinion of the child's parent, guardian, or custodian, are exhibiting symptoms of a communicable disease or other illness or are injured, (2) a child day camp, (3) a place that provides child day-care, but not publicly funded child day-care, if all of the following apply: (a) an organized religious body provides the child day-care, (b) a parent, custodian, or guardian of at least one child receiving child day-care is on the premises and readily accessible at all times, (c) the child day-care is not provided for more than 30 days a year, and (d) the child day-care is provided only for preschool and school children.

"Type A family day-care home" means a permanent residence of the administrator in which child day-care or publicly funded child day-care is provided for 7 to 12 children at one time or a permanent residence of the administrator in which child day-care is provided for 4 to 12 children at one time if four or more children at one time are under two years of age. "Type A family day-care home" does not include a residence in which the needs of children are administered to, if all of the children whose needs are being administered to are siblings of the same immediate family and the residence is the home of the siblings. "Type A family day-care home" does not include any child day camp. (R.C. 2923.124(I), by reference to R.C. 5104.01(QQ)--not in the bill.)

"Type B family day-care home" means a permanent residence of the provider in which child day-care is provided for one to six children at one time and in which no more than three children are under two years of age at one time. "Type B family day-care home" does not include a residence in which the needs of children are administered to, if all of the children whose needs are being administered to are siblings of the same immediate family and the residence is the home of the siblings. "Type B family day-care home" does not include any child day camp. (R.C. 2923.124(I), by reference to R.C. 5104.01(RR)--not in the bill.)

"Type C family day-care home" means a family day-care home authorized to provide child day-care by Sub. H.B. 62 of the 121st General Assembly, as amended by Am. Sub. S.B. 160 of the 121st General Assembly and Sub. H.B. 407 of the 123rd General Assembly (R.C. 2919.223(G)). Sub. H.B. 62 of the 121st General Assembly required the Ohio Department of Human Services to establish a pilot project under which a person providing child day-care in Paulding County to one to nine children at one time may obtain certification as a type C family day-care home and be exempt from type A home licensing requirements. Am. Sub. S.B. 160 of the 121st General Assembly lengthened the pilot project and expanded it to six additional counties in Northwest Ohio: Defiance, Fulton, Henry, Putnam, Van Wert, and Williams. Sub. H.B. 407 of the 123rd General

(8) A sports facility.

(9) Buildings owned by the state, the United States government, or political subdivisions thereof and the portions of buildings that are not owned by those entities but that are leased by those entities.

(10) A place in which federal law prohibits the carrying of handguns.

The bill provides that nothing in this provision negates or restricts a rule, policy, or practice of a private employer (that is not a private college, university, or other institution of higher education) concerning or prohibiting the presence of firearms on the private employer's premises or property, including motor vehicles owned by the private employer. A private employer of that nature is not required to adopt a rule, policy, or practice concerning or prohibiting the presence of firearms on the private employer's premises or property, including motor vehicles owned by the private employer. (R.C. 2923.125(C)(1).)

A private employer (defined for purposes of this paragraph as including a private college, university, or other institution of higher education) is immune from liability in a civil action for any injury, death, or loss to person or property that allegedly was caused by or related to a licensee bringing a handgun onto the premises or property of the private employer, including motor vehicles owned by the private employer, unless, the private employer acted with malicious purpose. A private employer is immune from liability in a civil action for any injury, death, or loss to person or property that allegedly was caused by or related to the private employer's decision to permit a licensee to bring, or prohibit a licensee from bringing, a handgun onto the premises or property of the private employer. (R.C. 2925.126(C)(2).)

The owner of private premises may post in any parking area on those premises a sign that clearly prohibits a person from carrying a concealed handgun in the parking area. If the person having control of the premises asks a licensee who is carrying a concealed handgun on the premises to either comply with this prohibition or leave the premises, the licensee must comply with this request. Failure of the licensee to comply with the request is grounds for a prosecution of criminal trespass, but the licensee may not be charged with criminal trespass unless the licensee fails to comply with a request of that nature.

The owner of private premises also may post at each entrance of a building on those premises a sign that clearly prohibits a person from carrying a concealed

Assembly lengthened the pilot program again; it currently is to terminate March 28, 2003.

handgun into the building. If a licensee carries a concealed handgun into the building in violation of that prohibition, the licensee may be charged with carrying a concealed handgun, but, notwithstanding the penalty provisions specified in the offense of carrying a concealed weapon, is guilty of a misdemeanor of the first degree. (R.C. 2923.126(C)(3).)

The bill provides that a person who holds a license to carry a concealed handgun that was issued pursuant to the law of another state that is recognized by the Attorney General pursuant to a reciprocity agreement has the same right to carry a concealed handgun in Ohio as a person who was issued a license to carry a concealed handgun under the bill and is subject to the same restrictions that apply to a person who carries a license issued under the bill. For the purposes of reciprocity with other states, peace officers and State Highway Patrol troopers who have arrest authority under any provision of the Revised Code are deemed to be licensees. (R.C. 2923.126(D).)

Procedure for contesting the denial of a license based on criminal records check

If a sheriff denies an application for a license to carry a concealed handgun or denies the renewal of a license as a result of the criminal records check, the applicant may challenge the findings of the criminal records check using BCII's existing challenge and review procedures (R.C. 2923.127).

Suspension and revocation of license

Suspension of a license

If a licensee holding a valid license is arrested for or otherwise charged with an offense making the licensee ineligible to get a license described in "**When license must be issued**," above, or becomes subject to a temporary protection order described in "**When license must be issued**," above, the sheriff who issued the license must suspend it and comply with the following paragraph upon becoming aware of the arrest, charge, or temporary protection order.

Upon becoming aware of an arrest, charge, or temporary protection order as described in the preceding paragraph, the sheriff who issued the license must notify the licensee, by certified mail, return receipt requested, at the licensee's last known residence address that the license has been suspended and that the licensee must surrender the license at the sheriff's office within ten days of the date on which the notice was mailed.

A suspension is to be considered as beginning on the date that the licensee is arrested for or otherwise charged with one of the specified offenses or on the date the appropriate court issued the specified temporary protection order,

irrespective of when the sheriff notifies the licensee of the suspension. The suspension ends on the date on which the charges are dismissed or the licensee is found not guilty of the offense or, unless the licensee becomes subject to a permanent protection order, on the date the appropriate court terminates the temporary protection order. If the suspension so ends, the sheriff must return the license to the licensee. (R.C. 2923.128(A).)

Revocation of a license

A sheriff who issues a license to carry a concealed handgun must revoke the license upon becoming aware that the licensee satisfies any of the following (R.C. 2923.128(B)(1)):

(1) The licensee is under 21 years of age.

(2) At the time of the issuance of the license, the licensee did not satisfy the eligibility requirements described in paragraph (3), (4), (5), (6), (7), or (8) in "**When license must be issued**," above.

(3) On or after the date on which the license was issued, the licensee is convicted of or pleads guilty to using weapons while intoxicated or an offense described in paragraph (4), (5), (6), (7), or (8) in "**When license must be issued**," above.

(4) On or after the date on which the license was issued, the licensee becomes subject to a permanent protection order issued upon a petition for relief from domestic violence.

(5) The licensee knowingly carries a concealed handgun into a place that the licensee knows is an unauthorized place specified in "**Privileges and duties of a licensee**," above.

(6) On or after the date on which the license was issued, the licensee is adjudicated to be mentally incompetent or has been involuntarily institutionalized pursuant to a court order.

(7) At the time of the issuance of the license, the licensee did not meet the residency requirements for the issuance of a license to carry a concealed handgun and currently does not meet those residency requirements.

(8) The competency certificate the licensee submitted was forged or otherwise was fraudulent.

Upon becoming aware of any circumstance listed above that applies to a particular licensee, the sheriff who issued the license must notify the licensee, by

certified mail, return receipt requested, at the licensee's last known residence address that the license is subject to revocation and that the licensee may come to the sheriff's office and contest the sheriff's proposed revocation within 14 days of the date on which the notice was mailed. After the 14-day period and after consideration of any information that the licensee provides during that period, if the sheriff determines on the basis of the information of which the sheriff is aware that the licensee satisfies any of the above circumstances and no longer meets the requirements for holding a license to carry a concealed handgun, the sheriff must revoke the license, notify the licensee of that fact, and require the licensee to surrender the license. (R.C. 2923.128(B)(2).)

License data available through LEADS

Upon issuing a license, issuing a replacement license, or renewing license to carry a concealed handgun, the bill requires the sheriff to make available through the law enforcement automated database system (LEADS) all information contained on the license as well as a notation indicating whether the license has been suspended, revoked, or lost or destroyed. The bill also requires the Superintendent of the State Highway Patrol to ensure that LEADS is so configured as to permit the transmission of this information through LEADS. (R.C. 2923.125(H).)

Law enforcement agencies may use the information for law enforcement purposes only. The information is confidential and is not a public record. No person must release or otherwise disseminate this information obtained through LEADS in a manner not so described unless required to do so pursuant to a court order. A person who violates this prohibition is guilty of illegal release of confidential concealed handgun license records, a felony of the fifth degree. In addition to any penalties imposed under the Criminal Code, if the violation was willful and deliberate, the offender must be suspended and is subject to a civil fine of \$1,000. Any person who is harmed by the violation has a private cause of action against the offender for any death or injury to person or property that is a proximate result of the violation and may recover court costs and attorney fees related to the action. (R.C. 2923.1209(D) and (E).)

Civil immunity

If a sheriff, the Superintendent or the employees of BCII, or the AG or the AG's employees make a good faith effort in performing the duties imposed upon them by the bill, in addition to the personal immunity of state or political subdivision officers or employees and the governmental immunity provided by the Political Subdivision Sovereign Immunity Law and in addition to any other immunity possessed by BCII, the AG, and their employees, the sheriff, the sheriff's office, the county in which the sheriff has jurisdiction, the BCII, the

Superintendent and employees of BCII, the AG, and the employees of the AG are immune from liability in a civil action for injury, death, or loss to person or property that allegedly was caused by or related to any of the following: (1) the issuance, renewal, suspension, or revocation of a license to carry a concealed handgun, (2) the failure to issue, renew, suspend, or revoke a license, or (3) any action or misconduct with a handgun committed by a licensee. The bill further provides that any action of a sheriff relating to the issuance, renewal, suspension, or revocation of a license to carry a concealed handgun is to be considered a governmental function for purposes of the Political Subdivision Sovereign Immunity Law. (R.C. 2923.129(A)(1) and (2).)

An entity that or instructor who provides a firearms competency certification under the bill is immune from civil liability that might otherwise be incurred or imposed for any death or any injury or loss to person or property that is caused by or related to a person to whom the entity or instructor has issued the competency certificate if all of the following apply (R.C. 2923.129(A)(3)):

(1) The alleged liability of the entity or instructor relates to the training provided in the course, class, or program covered by the competency certificate.

(2) The entity or instructor makes a good faith effort in determining whether the person has satisfactorily completed the course, class, or program and makes a good faith effort in assessing the person in the competency examination.

(3) The entity or instructor did not issue the competency certificate with malicious purpose, in bad faith, or in a wanton or reckless manner.

An entity that or instructor who provides a renewed competency certification is immune from civil liability that might otherwise be incurred or imposed for any death or any injury or loss to person or property that is caused by or related to a person to whom the entity or instructor has issued the competency certificate if the entity or instructor makes a good faith effort in assessing the person in the competency examination and the entity or instructor did not issue the renewed competency certificate with malicious purpose, in bad faith, or in a wanton or reckless manner (R.C. 2923.129(A)(4)).

Under the bill, a law enforcement agency that employs a peace officer is immune from liability in a civil action to recover damages for injury, death, or loss to person or property allegedly caused by any act of that peace officer if the act occurred while the peace officer carried a concealed handgun and was off duty and if the act allegedly involved the peace officer's use of the concealed handgun. R.C. 9.86 and 9.87 (which provide for the qualified civil immunity of governmental officers and employees and the circumstances under which it indemnifies such officers and employees) apply to any civil action involving a

peace officer's use of a concealed handgun in the performance of the peace officer's duties while the peace officer is off duty (R.C. 2923.129(A)(5)).

Miscellaneous provisions relating to sheriff; offenses

Sheriff's licensure records are not public records

The records that a sheriff keeps relative to the issuance, renewal, suspension, or revocation of a license to carry a concealed handgun, including, but not limited to, completed applications for the issuance or renewal of a license, reports of criminal records checks, and applicants' social security numbers and fingerprints, are confidential and are not public records. The bill prohibits any person from releasing or otherwise disseminating records that are confidential as described in this paragraph unless required to do so pursuant to a court order. A person who violates this prohibition is guilty of illegal release of confidential concealed handgun license records, a felony of the fifth degree. In addition to any penalties imposed under the Criminal Code, if the violation was willful and deliberate, the offender must be suspended and is subject to a civil fine of \$1,000. Any person who is harmed by the violation has a private cause of action against the offender for any injury, death, or loss to person or property that is a proximate result of the violation and may recover court costs and attorney fees related to the action. (R.C. 2923.129(B) and (E).)

Reports to Attorney General

Under the bill, each sheriff must report to the AG the number of licenses to carry a concealed handgun that the sheriff issued, renewed, suspended, revoked, or denied during the previous quarter of the calendar year and the number of applications for those licenses that were suspended during the previous quarter of the calendar year. The sheriff must not include in the report the applicant's or licensee's name or other identifying information. The sheriff must report that information in a manner that permits the AG to maintain the statistics and to timely prepare the statistical report described below in **'Duties of the Attorney General.'** The information that is received by the AG under this provision is a public record kept by the AG for the purposes of the Public Records Law. (R.C. 2923.129(C).)

Sheriff handgun licensure fund

Each county must establish a sheriff handgun licensure fund in the county treasury, and the sheriff of that county must deposit into that fund all fees paid by applicants for the issuance or renewal of a license or a replacement license to carry a concealed handgun. The county must distribute the fees deposited into the fund

in accordance with the rules adopted by the AG as described below in "**Duties of the Attorney General.**" (R.C. 311.42(A).)

The sheriff, with the approval of the board of county commissioners, may expend any county portion of the fees deposited into the sheriff handgun licensure fund for any costs incurred by the sheriff in connection with performing any administrative functions related to the licensing of handguns, including, but not limited to, personnel expenses and the costs of any handgun safety education program that the sheriff chooses to fund (R.C. 311.42(B)).

Offenses with respect to licenses

Possessing a revoked or suspended concealed handgun license

The bill prohibits a person, except in the performance of official duties, from possessing a concealed handgun license that was issued and that has been revoked or suspended pursuant to the bill's provisions. A person who violates this prohibition is guilty of possessing a revoked or suspended concealed handgun license, a misdemeanor of the third degree. (R.C. 2923.1211(B) and (C).)

Falsification of a concealed handgun license

The bill prohibits a person from altering a license to carry a concealed handgun that was issued pursuant to its provisions and from creating a fictitious document that purports to be a license of that nature. A person who violates this prohibition is guilty of falsification of a concealed handgun license, a felony of the fifth degree. (R.C. 2923.1211(A) and (C).)

Falsification to obtain a concealed handgun license

Existing law--prohibitions and penalties. Existing law prohibits a person from knowingly making a false statement, or knowingly swearing or affirming the truth of a false statement previously made, in certain circumstances or in relation to certain types of documents, particularly official documents. Generally, a person who violates these prohibitions is guilty of falsification, a misdemeanor of the first degree. If the statement is made in connection with the purchase of a firearm and in conjunction with the furnishing to the seller of the firearm of a fictitious or altered driver's or commercial driver's license or permit, a fictitious or altered identification card, or any other document that contains false information about the purchaser's identity, the person is guilty of falsification to purchase a firearm, a felony of the fifth degree.

Existing law also prohibits a person, in connection with the purchase of a firearm, from knowingly furnishing to the seller of the firearm a fictitious or altered driver's or commercial driver's license or permit, a fictitious or altered

identification card, or any other document that contains false information about the purchaser's identity. A person who violates this prohibition is guilty of falsification to purchase a firearm, a felony of the fifth degree. (R.C. 2921.13(A)(12), (B), and (E).)

Existing law--civil liability. A person who violates any of the falsification prohibitions is liable in a civil action to any person harmed by the violation for injury, death, or loss to person or property incurred as a result of the commission of the offense and for reasonable attorney's fees, court costs, and other expenses incurred as a result of prosecuting the civil action. Existing law states that a civil action authorized in the falsification statute is not the exclusive remedy of a person who incurs injury, death, or loss to person or property as a result of a violation of a prohibition against falsification. (R.C. 2921.13(F).)

Operation of the bill. The bill adds two new prohibitions to the offense of falsification. First, it prohibits a person from knowingly making a false statement, or knowingly swearing or affirming the truth of a false statement previously made, when the statement is made in an application filed with a county sheriff in order to obtain or renew a license to carry a concealed handgun. Second, it prohibits a person, in an attempt to obtain a license to carry a concealed handgun, from knowingly presenting to a sheriff a fictitious or altered document that purports to be a certification of the person's competence in handling a handgun as described in paragraph (3) of "**Making the application**," above. A person who violates either prohibition is guilty of falsification to obtain a concealed handgun license, a felony of the fourth degree. The existing provision regarding liability in a civil action applies also to the new falsification prohibitions. (R.C. 2921.13(A)(14), (C), (F)(4), and (G).)

Posting of signs in specified areas

The bill requires specified persons, boards, and entities or their designees to post a sign that contains a statement in substantially the following form: "Unless otherwise authorized by law, pursuant to the Ohio Revised Code, no person shall knowingly possess, have under the person's control, convey, or attempt to convey a deadly weapon or dangerous ordnance onto these premises. For each of the specified types of premises, the sign must be posted in a conspicuous location on the premises. The following table describes the places where the sign must be placed and the individual or entity responsible for putting up the sign (R.C. 2923.1212(A)):

Place	Individual or entity responsible for putting up sign
Police stations, municipal jails, and municipal courthouse and courtrooms	The Director of Public Safety or the person or board charged with the erection, maintenance, or repair of the premises
Sheriff's offices	The sheriff or the sheriff's designee who has charge of the sheriff's office
State highway patrol stations	The Superintendent of the State Highway Patrol or the Superintendent's designee
County, multicounty, municipal, municipal-county, or multicounty-municipal jails and workhouses, community-based correctional facilities, halfway houses, alternative residential facilities, and other state or local correctional institutions within Ohio	The sheriff, chief of police, or person in charge of the facility or a designee of any of those persons
Airport facilities	The board of trustees of a regional airport authority, chief administrative officer of an airport facility, or other person in charge of an airport facility
Courthouses and the buildings and structures in which courtrooms are located	The officer or the officer's designee who has charge of the courthouse, building, or structure
Premises controlled by the BCII	The Superintendent of the BCII or the Superintendent's designee

The bill further requires the following boards, bodies, and persons, or designees, to post in the following locations a sign that contains a statement in substantially the following form: "Unless otherwise authorized by law, pursuant to Ohio Revised Code section 2923.122, no person shall knowingly possess, have under the person's control, convey, or attempt to convey a deadly weapon or dangerous ordnance into a school safety zone"⁵ (R.C. 2923.1212(B)):

5 "School safety zone" consists of a school, school building, school premises, school activity, and school bus (R.C. 2901.01(C)(1)--not in the bill).

(1) A board of education of a city, local, exempted village, or joint vocational school district or that board's designee in a conspicuous location in each building and on each parcel of real property owned or controlled by the board;

(2) A governing body of a school for which the State Board of Education prescribes minimum standards under R.C. 3301.07 or that body's designee in a conspicuous location in each building and on each parcel of real property owned or controlled by the school;

(3) The principal or chief administrative officer of a nonpublic school in a conspicuous location on property owned or controlled by that nonpublic school.

The bill requires the person having control of any sports facility, as defined in R.C. 4303.182, to post in a conspicuous location in the sports facility a sign that is in substantially the following form: "Unless otherwise authorized by law, pursuant to the Ohio Revised Code, no person shall knowingly possess, have under the person's control, convey, or attempt to convey a concealed handgun onto these premises." (R.C. 2923.1212(C).)

Duties of the Attorney General

Application and license forms

The bill requires the AG to prescribe, and to make available to sheriffs, both of the following (R.C. 109.69(A)):

(1) An application form to be used by a person who applies for a license to carry a concealed handgun or for the renewal of a license of that nature and that conforms substantially to the form prescribed in the bill (R.C. 2923.1210, not reproduced in this analysis);

(2) A form for the license to carry a concealed handgun that is to be issued by sheriffs to persons who qualify for the license and that conforms to the following requirements:

(a) It has space for the licensee's full name, residence address, and date of birth and for a color photograph of the licensee.

(b) It has space for the date of issuance of the license, its expiration date, its county of issuance, the name of the sheriff who issues the license, and the unique combination of letters and numbers given to the license by the sheriff.

(c) It has space for the signature of the licensee and the signature or a facsimile signature of the sheriff who issues the license.

(d) It does not require the licensee to include serial numbers of handguns, other identification related to handguns, or similar data that is not pertinent or relevant to obtaining the license and that could be used as a de facto means of registration of handguns owned by the licensee.

(3) A series of three-letter county codes that identify each Ohio county and a procedure by which a sheriff will give each license to carry a concealed handgun a unique combination of letters and numbers that identifies the county in which the license was issued and that uses the county code and a unique number for each license the sheriff of that county issues.

Firearms laws pamphlet

The bill further requires the AG to prepare a pamphlet that explains, in everyday language, Ohio Firearms Laws and instructs the reader in dispute resolution. The AG must make copies of the pamphlet available to sheriffs for distribution to applicants for a license to carry a concealed handgun and applicants for the renewal of a license (R.C. 109.69(B)).

License application and renewal fee

The AG must prescribe rules in accordance with the Administrative Procedure Act, prescribing a fee to be paid by the applicant for a license to carry a concealed handgun or for the renewal of a license to carry a concealed handgun as follows:

(1) For an applicant who has been an Ohio resident for five or more years, an amount that does not exceed the lesser of the actual cost of issuing the license, including, but not limited to, the cost of having BCII perform a criminal records check or \$45;

(2) For an applicant who has been an Ohio resident for less than five years an amount that shall consist of the actual cost of having a criminal background check performed by the Federal Bureau of Investigation plus the lesser of the actual cost of issuing the license or \$45.

The AG also must adopt rules in accordance with the Administrative Procedure Act specifying the portion of the fee that will be used to pay each particular cost of the issuance of the license or the license renewal, including the portion of the fee to be paid to the sheriff. (R.C. 109.69(C).)

Timeframe for adopting rules and making forms and pamphlets available

Within 30 days after the effective date of the bill, the AG must submit to the Joint Committee on Agency Rule Review the rules prescribing the application

fee and the apportionment of the fees paid. Within 30 days after those rules take effect, the AG must prepare and make available to Ohio sheriffs the application and license forms and the Ohio Firearms Laws and Dispute Resolution pamphlet. (Section 8.)

Statistics and reports

In addition, the bill requires the AG to maintain statistics with respect to the issuance, renewal, suspension, revocation, and denial of licenses to carry a concealed handgun and the suspension of applications for those licenses as reported by sheriffs as described in "**Reports to the Attorney General**," above. No later than the first day of March in each year, the AG must submit a statistical report to the Governor, the President of the Senate, and the Speaker of the House of Representatives indicating the number of those licenses that were issued, renewed, suspended, revoked, and denied in the previous calendar year and the number of applications for those licenses that were suspended in the previous calendar year. The AG must submit its first annual statistical report no later than 15 months after the effective date of the bill. The statistics and the statistical reports are public records. (R.C. 109.69(D); Section 8.)

Reciprocity agreements

The bill requires the AG to negotiate an agreement with any other state that provides for the issuance of a license to carry a concealed handgun under which a license issued by the other state is recognized in Ohio if the AG determines that the eligibility requirements imposed by the other state are substantially comparable to the eligibility requirements for a license to carry a concealed handgun issued under the bill and the other state recognizes a license to carry a concealed handgun issued under the bill (R.C. 109.69(E)).

Carrying a concealed weapon

Existing law

Prohibition. Existing law prohibits a person from knowingly carrying or having, concealed on the person's person or concealed ready at hand, any deadly weapon or dangerous ordnance (R.C. 2923.12(A)).

Penalty. A person who violates the prohibition is guilty of carrying concealed weapons, a misdemeanor of the first degree. If the offender previously has been convicted of a violation of carrying concealed weapons or of any offense of violence, if the weapon involved is a firearm that is either loaded or for which the offender has ammunition ready at hand, or if the weapon involved is dangerous ordnance, carrying concealed weapons is a felony of the fourth degree. If the

weapon involved is a firearm and the violation is committed at premises for which a D permit has been issued under the Liquor Control Law or if the offense is committed aboard an aircraft, or with purpose to carry a concealed weapon aboard an aircraft, regardless of the weapon involved, carrying concealed weapons is a felony of the third degree. (R.C. 2923.12(D).)

Exception. The prohibition does not apply to officers, agents, or employees of Ohio or any other state or the United States, or to law enforcement officers, authorized to carry concealed weapons or dangerous ordnance and acting within the scope of their duties (R.C. 2923.12(B)).

Affirmative defense. It is an affirmative defense to a charge of carrying or having control of a weapon other than dangerous ordnance that the actor was not otherwise prohibited by law from having the weapon and that any of the following applies (R.C. 2923.12(C)):

(1) The weapon was carried or kept ready at hand by the actor for defensive purposes while the actor was engaged in or was going to or from the actor's lawful business or occupation, which business or occupation was of a character or was necessarily carried on in a manner or at a time or place as to render the actor particularly susceptible to criminal attack, such as would justify a prudent person in going armed.

(2) The weapon was carried or kept ready at hand by the actor for defensive purposes while the actor was engaged in a lawful activity and had reasonable cause to fear a criminal attack upon the actor, a member of the actor's family, or the actor's home, such as would justify a prudent person in going armed.

(3) The weapon was carried or kept ready at hand by the actor for any lawful purpose and while in the actor's own home.

(4) The weapon was being transported in a motor vehicle for any lawful purpose, was not on the actor's person, and, if the weapon was a firearm, was carried in compliance with the applicable requirements described in (3) in "**Improperly handling firearms in a motor vehicle**," below.

Operation of the bill

Prohibition. The bill restructures the prohibition against carrying a concealed weapon. It prohibits a person from knowingly carrying or having, concealed on the person's person or concealed ready at hand, any of the following (R.C. 2923.12(A)):

(1) A deadly weapon other than a handgun;

- (2) A handgun other than a dangerous ordnance;
- (3) A dangerous ordnance.

Penalty. The bill provides lesser penalties for a person who either has a license to carry a concealed handgun but does not possess it at the time of the violation or if the person met all of the criteria for possessing a license other than residency and obtaining a competency certificate. If a person being arrested for possessing a concealed handgun promptly produces a valid license issued under the bill or a license to carry a concealed handgun that was issued by another state with which the AG has entered into a reciprocity agreement, and if at the time of the violation the person was not knowingly in an unauthorized place specified in "**Privileges and duties of a licensee**," above, at the time of the offense, the officer may not arrest the person for the violation. If the person is not able to promptly produce such a license and if the person is in such a place, the officer may arrest the person for the violation, and the offender must be punished as follows:

(1) The offender is guilty of a minor misdemeanor if, within ten days after the arrest, the offender presents such a license that was valid at the time of the arrest to the law enforcement agency that employs the arresting officer and, at the time of the arrest the offender was not knowingly in a place that is specified, as described in "**Privileges and duties of a licensee**," above, as a place in which a licensee is not authorized to carry a concealed handgun.

(2) The offender is guilty of a misdemeanor and must be fined \$500 if all of the following apply: (a) the offender had previously been licensed to carry a license to carry a concealed handgun or a license to carry a concealed handgun that was issued by another state with which the AG has entered into a reciprocity agreement, and that license had expired within the two years immediately preceding the arrest, (b) within 45 days after the arrest, the offender presents either type of license to the law enforcement agency that employs the arresting officer, and (c) at the time of the commission of the offense, the offender was not knowingly in a place that is specified, as described in "**Privileges and duties of a licensee**," above, as a place in which a licensee is not authorized to carry a concealed handgun.

(3) If neither paragraph (1) nor paragraph (2) apply, the offender is punished as under existing law.

Exception. The bill specifies that the prohibition against carrying a handgun other than a dangerous ordnance ((2), above, under "**Prohibition**") does not apply to either of the following (R.C. 2923.12(B)(2)):

(1) An officer, agent, or employee of Ohio, another state, or the United States, or a law enforcement officer or a State Highway Patrol trooper, who is authorized to carry a handgun;

(2) A person who, at the time of the alleged carrying or possession of a handgun, is carrying a valid license to carry a concealed handgun issued under the bill's provisions or a license to carry a concealed handgun that was issued by another state with which the AG has entered into a reciprocity agreement and the person was not knowingly in a place that is specified, as described in "**Privileges and duties of a licensee**," above, as a place in which a licensee is not authorized to carry a concealed handgun.

The bill does not otherwise change the application of the offense or its affirmative defenses (R.C. 2923.12(B) and (C)).

Prosecution. The bill prohibits requiring a person who is charged with carrying concealed weapons to obtain a license to carry a concealed handgun as a condition for the dismissal of the charge (R.C. 2923.12(D)).

Possession of a firearm in a liquor permit premises

Existing law

Prohibition and penalty. Existing law prohibits a person from possessing a firearm in any room in which liquor is being dispensed on premises for which a D permit has been issued under the Ohio Liquor Law. A violation of the prohibition is a felony of the fifth degree. (R.C. 2923.121(A) and (D).)

Exceptions. The prohibition does not apply to officers, agents, or employees of Ohio or another state or the United States, or to law enforcement officers, when authorized to carry firearms, and *acting within the scope of their duties*. The prohibition does not apply to hotel accommodations. Additionally, the prohibition does not prohibit members of veteran's organizations from possessing unloaded rifles in any room in any premises under the control of the veteran's organization as long as the person is not otherwise prohibited by law from having the rifle. Finally, the prohibition does not apply to any person possessing or displaying firearms in any room used to exhibit unloaded firearms for sale or trade in a soldiers' memorial, in a convention center, or in any other public meeting place, if the person is an exhibitor, trader, purchaser, or seller of firearms and is not otherwise prohibited by law from possessing, trading, purchasing, or selling the firearms. (R.C. 2923.121(B).)

Affirmative defense. It is an affirmative defense to a charge of illegal possession of a firearm in a liquor permit premises that the actor was not otherwise

prohibited by law from having the firearm, and that either of the following apply: (1) the firearm was carried or kept ready at hand by the actor for defensive purposes, while the actor was engaged in or was going to or from the actor's lawful business or occupation, which business or occupation was of such character or was necessarily carried on in such manner or at such a time or place as to render the actor particularly susceptible to criminal attack, such as would justify a prudent person in going armed, or (2) the firearm was carried or kept ready at hand by the actor for defensive purposes, while the actor was engaged in a lawful activity, and had reasonable cause to fear a criminal attack upon the actor or a member of the actor's family, or upon the actor's home, such as would justify a prudent person in going armed. (R.C. 2923.121(C).)

Operation of the bill

The bill prohibits requiring a person who is charged with illegal possession of a firearm in liquor permit premises to obtain a license to carry a concealed handgun as a condition for the dismissal of the charge (R.C. 2923.121(D)).

Conveyance of a deadly weapon into a courthouse

Existing law

Prohibition and penalty. Existing law prohibits a person from knowingly conveying or attempting to convey a deadly weapon or dangerous ordnance into a courthouse or into another building or structure where a courtroom is located (hereafter "courthouse"). A person who violates this prohibition is guilty of illegal conveyance of a deadly weapon or dangerous ordnance into a courthouse, which generally is a felony of the fifth degree. If the offender previously has been convicted of this offense or the offense of illegal possession or control of a deadly weapon or dangerous ordnance in a courthouse, this offense is a felony of the fourth degree. (R.C. 2923.123(A) and (D).)

Exception. The prohibition does not apply to any of the following (R.C. 2923.123(C)):

(1) A judge of an Ohio court of record or a magistrate, unless a Supreme Court or local court rule prohibits all persons from conveying or attempting to convey a deadly weapon or dangerous ordnance into a courthouse or from possessing or having under one's control a deadly weapon or dangerous ordnance in a courthouse;

(2) A peace officer, or an officer of a law enforcement agency of another state, a political subdivision of another state, or the United States, who is authorized to carry a deadly weapon or dangerous ordnance, who possesses or has

under that individual's control a deadly weapon or dangerous ordnance as a requirement of that individual's duties, and who is acting within the scope of that individual's duties at the time of that possession or control;

(3) A person who conveys, attempts to convey, possesses, or has under the person's control a deadly weapon or dangerous ordnance that is to be used as evidence in a pending criminal or civil action or proceeding;

(4) A bailiff or deputy bailiff of an Ohio court of record who is authorized to carry a firearm, who possesses or has under that individual's control a firearm as a requirement of that individual's duties, and who is acting within the scope of that individual's duties at the time of that possession or control;

(5) A prosecutor, or a secret service officer appointed by a county prosecuting attorney, who is authorized to carry a deadly weapon or dangerous ordnance in the performance of the individual's duties, who possesses or has under that individual's control a deadly weapon or dangerous ordnance as a requirement of that individual's duties, and who is acting within the scope of that individual's duties at the time of that possession or control.

The exceptions in (2), (4), and (5), above, do not apply if a Supreme Court or local court rule prohibits all persons from conveying or attempting to convey a deadly weapon or dangerous ordnance into a courthouse or from possessing or having under one's control a deadly weapon or dangerous ordnance in a courthouse.

Operation of the bill

The bill expands the exceptions to provide that, in addition to the above specified individuals, the prohibition does not apply to a person who conveys or attempts to convey a handgun into a courthouse or into another building or structure in which a courtroom is located (hereafter "courthouse"), who, at the time of the conveyance or attempt, is carrying a valid license to carry a concealed handgun issued pursuant to this bill or a license to carry a concealed handgun that was issued by another state with which the AG has entered into a reciprocity agreement, and who transfers possession of the handgun to the officer or officer's designee who has charge of the courthouse or building. The officer must secure the handgun until the licensee is prepared to leave the premises. The exemption applies only if the officer who has charge of the courthouse or building provides services of that nature; an officer who has charge of the courthouse or building is not required to offer services of that nature. This exemption to the prohibition does not apply if a Supreme Court or local court rule prohibits all persons from conveying or attempting to convey a deadly weapon or dangerous ordnance into a

courthouse or from possessing or having under one's control a deadly weapon or dangerous ordnance in a courthouse. (R.C. 2923.123(C)(6).)

Improperly handling firearms in a motor vehicle

Existing law

Prohibition. Existing law prohibits a person from knowingly doing any of the following (R.C. 2923.16(A), (B), and (C)):

- (1) Discharging a firearm while in or on a motor vehicle;
- (2) Transporting or having a loaded firearm in a motor vehicle in a manner that the firearm is accessible to the operator or any passenger without leaving the vehicle;
- (3) Transporting or having a firearm in a motor vehicle, unless it is unloaded and is carried in one of the following ways: (a) in a closed package, box, or case, (b) in a compartment that can be reached only by leaving the vehicle, (c) in plain sight and secured in a rack or holder made for the purpose, or (d) 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.

Penalty. A person who violates one of the prohibitions is guilty of improperly handling firearms in a motor vehicle. A violation of the first or second prohibition is a misdemeanor of the first degree, and a violation of the third prohibition is a misdemeanor of the fourth degree. (R.C. 2923.16(F).)

Exceptions. The prohibitions do not apply to officers, agents, or employees of Ohio or any other state or the United States, or to law enforcement officers, when authorized to carry or have loaded or accessible firearms in motor vehicles and acting within the scope of their duties.

The prohibition against knowingly discharging a firearm while in or on a motor vehicle does not apply to a person in specified circumstances related to shooting coyotes and groundhogs.

The prohibitions against transporting firearms in specified manners do not apply to a person if all of the following apply: (1) the person is the operator or a passenger in a motor vehicle, (2) the motor vehicle is on real property that is located in an unincorporated area of a township that is zoned or used for agriculture, (3) the person owns the property or is the spouse, child, tenant, or spouse or child of a tenant of the owner of the real property, and (4) the person did

not transport or possess the firearm in an illegal manner prior to arriving on the real property. (R.C. 2923.16(D).)

Affirmative defenses. The first and second affirmative defenses authorized for persons who are charged with carrying a concealed weapon (see "**Carrying a concealed weapon**," above) are affirmative defenses to a charge under the second or third prohibition (R.C. 2923.16(E)).

Operation of the bill

The bill states that the second prohibition does not apply to a person who has been issued a license to carry a concealed handgun under the bill. The bill then prohibits a person who is licensed to carry a concealed handgun under the bill from occupying a motor vehicle that is being operated on any street or highway in Ohio when a loaded handgun is in the motor vehicle unless the handgun is not on the person's person and is securely encased. For the purposes of this prohibition, "securely encased" means stored in a closed glove compartment, whether or not locked, or in a closed and locked or latched, or zippered and zipped gun case that is not in plain sight. The bill states that it is not a violation of this prohibition if the handgun is unloaded and stored in plain sight and secured in a rack or holder made for the purpose. It also is not a violation of this prohibition if the handgun is unloaded and is either stored in plain sight with the action open or with the weapon stripped or is stored in plain sight if the handgun is of a type on which the action will not stay open and that cannot easily be stripped. A violation of this new prohibition is a misdemeanor of the first degree. (R.C. 2923.16(D) and (G).)

Prosecution. The bill prohibits requiring a person who is charged with improperly handling firearms in a motor vehicle to obtain a license to carry a concealed handgun as a condition for the dismissal of the charge (R.C. 2923.16(E)(3)).

The bill does not otherwise modify the offense of improperly handling firearms in a motor vehicle (R.C. 2923.16).

Improper use or handling of firearms in a vessel

Existing law

Prohibitions. Existing law contains three prohibitions with respect to the use or handling of firearms in a vessel (R.C. 1547.69(B), (C), and (D)):

(1) It prohibits a person from knowingly discharging a firearm while in or on a vessel.

(2) It prohibits a person from knowingly transporting or having a loaded firearm in a vessel in a manner that the firearm is accessible to the operator or any passenger.

(3) It prohibits a person from knowingly transporting or having a firearm in a vessel, unless it is unloaded and is carried in one of the following ways: (a) in a closed package, box, or case, or (b) in plain sight with the action opened 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.

R.C. 1547.69 also prohibits any person from operating or permitting to be operated any vessel on Ohio waters in violation of the above prohibitions (R.C. 1547.69(G)).

Penalty. A person who violates any of the prohibitions is guilty of a misdemeanor of the fourth degree. (R.C. 1547.99(F), not in the bill.)

Exceptions. The prohibitions do not apply to officers, agents, or employees of Ohio or any other state or of the United States or to law enforcement officers when authorized to carry or have loaded or accessible firearms in a vessel and acting within the scope of their duties, and the prohibitions do not apply to persons legally engaged in hunting.

The prohibitions do not apply to the possession or discharge of a U.S. Coast Guard approved signaling device required to be carried aboard a vessel when the signaling device is possessed or used for the purpose of giving a visual distress signal. The section also prohibits any person from knowingly transporting or possessing such a signaling device in or on a vessel in a loaded condition except as so authorized. (R.C. 1547.69(F) and (H).)

Affirmative defenses. The first two affirmative defenses authorized for persons charged with the offense of carrying a concealed weapon (see "**Carrying a concealed weapon**," above) are affirmative defenses to a charge under the second or third prohibition related to firearms in a vessel (R.C. 1547.69(E)).

Operation of the bill

Exception. The bill states that the second and third prohibitions relating to firearms in a vessel do not apply to a person who transports or possesses a handgun in a vessel and who, at the time of that transportation or possession, is carrying a valid license to carry a concealed handgun issued under the bill's provisions or a license to carry a concealed handgun that was issued by another state with which the AG has entered into a reciprocity agreement and the person was not knowingly in a place on the vessel that is specified, as described in

"Privileges and duties of a licensee," above, as a place in which a licensee is not authorized to carry a concealed handgun (R.C. 1547.69(H)).

Prosecution. The bill prohibits requiring a person who is charged with a violation of the second or third prohibition related to transporting or possessing firearms in a vessel to obtain a license to carry a concealed handgun as a condition for the dismissal of the charge (R.C. 1547.69(E)(2)).

The bill does not otherwise modify the prohibitions relating to firearms in a vessel (R.C. 1547.69).

Having weapons while under disability

Existing law

Unless relieved from the disability, existing law prohibits a person from knowingly acquiring, having, carrying, or using any firearm or dangerous ordnance, if any of the following apply:

- (1) The person is a fugitive from justice.
- (2) The person is under indictment for or has been convicted of any felony offense of violence or has been adjudicated a delinquent child for the commission of an offense that, if committed by an adult, would have been a felony offense of violence.
- (3) The person is under indictment for or has been convicted of any offense involving the illegal possession, use, sale, administration, distribution, or trafficking in any drug of abuse or has been adjudicated a delinquent child for the commission of an offense that, if committed by an adult, would have been an offense involving the illegal possession, use, sale, administration, distribution, or trafficking in any drug of abuse.
- (4) The person is drug dependent, in danger of drug dependence, or a chronic alcoholic.
- (5) The person is under adjudication of mental incompetence.

Existing law also prohibits a person who has been convicted of a felony of the first or second degree from violating the preceding prohibition within five years of the date of the person's release from imprisonment or from post-release control that is imposed for the commission of a felony of the first or second degree.

A person who violates either prohibition is guilty of having weapons while under disability. A violation of the first prohibition is a felony of the fifth degree. A violation of the second prohibition is a felony of the third degree. (R.C. 2923.13.)

Operation of the bill

Under the bill, violation of either prohibition is a felony of the third degree (R.C. 2923.13).

Trigger locks to be offered at time of purchase of firearm

The bill requires the Office of Criminal Justice Services to prepare a poster and a brochure that contain typeface that is at least one-quarter inch tall and that describe safe storage practices. The Office must furnish copies of the poster and brochure free of charge to each federally licensed firearms dealer in Ohio. Each federally licensed firearms dealer is required to post the poster in a conspicuous location in the dealer's place of business and make the brochure available to all firearms purchasers. The bill also requires a federally licensed firearms dealer, at the time of sale of a firearm, to offer for sale to the purchaser of the firearm a trigger lock, gun lock, or gun locking device appropriate for that firearm. (R.C. 181.521 and 2923.25.)

Access to sealed records

Existing law

Existing law specifies a procedure by which a first offender may apply to a court for the sealing of the record of the offender's conviction. Records that are so sealed may be inspected only by specified law enforcement officers and agencies, prosecutors, parole or probation officers, the person who is the subject of the records, and by BCII or an authorized BCII employee for the purpose of providing information to certain boards or persons with respect to persons who apply for employment to work with children or to provide direct care to an older adult. (R.C. 2953.32(A) and (D).)

Operation of the bill

The bill authorizes BCII, an authorized employee of BCII, a sheriff, or an authorized employee of the sheriff to inspect sealed records of first offenders in connection with a criminal records check described in "**Criminal records check**," above (R.C. 2953.32(D)(10)).

Private investigators and security providers

Existing law

Existing law specifies the licensing requirements for persons engaged in the business of private investigation, the business of security services, or both. It also specifies the requirements for these licensees or registered employees of licensees (private investigators and security guard providers) to carry a firearm. These requirements include certification of satisfactory completion of firearms training, or other evidence of approval of firearms training, by the Executive Director of OPOTC, registration as a licensee or employee who may carry a firearm, issuance of an identification card indicating that the licensee or employee is a firearm-bearer, and satisfactory requalification in firearms use on a periodic basis. (R.C. 4749.10.)

Operation of the bill

The bill provides that nothing in the provisions in existing law prohibits a private investigator or a security guard provider from carrying a concealed handgun if the private investigator or security guard provider complies with the bill's provisions governing licenses to carry a concealed handgun (R.C. 4749.10(C)).

Theft of a firearm or dangerous ordnance

Existing law

Existing law prohibits a person, with purpose to deprive the owner of property or services, from knowingly obtaining or exerting control over either the property or services in any of the following ways (R.C. 2913.02(A)):

- (1) Without the consent of the owner or person authorized to give consent;
- (2) Beyond the scope of the express or implied consent of the owner or person authorized to give consent;
- (3) By deception;
- (4) By threat;
- (5) By intimidation.

A person who violates this prohibition is guilty of theft. The precise name of the offense and the penalty for the offense depend on the type of the property or the value of the property or services involved in the offense. If the property stolen

is a firearm or dangerous ordnance, the violation is grand theft, a felony of the fourth degree. (See "**Background--Other theft penalties**," below, for the penalties for other theft offenses) (R.C. 2913.02(B)(1) and (4)).

Operation of the bill

The bill increases the penalty for theft when the property stolen is a firearm or a dangerous ordnance to a felony of the third degree. The violation continues to be grand theft. The bill creates a presumption in favor of the court imposing a prison term for the offense. The offender must serve the prison term consecutively to any other prison term or mandatory prison term previously or subsequently imposed upon the offender. Under the existing Felony Sentencing Law, when consecutive prison terms are imposed pursuant to that law, the term to be served is the aggregate of all of the terms so imposed. (R.C. 2913.02(B)(1) and (4) and 2929.14(E)(3) and (5).)

Background

Other theft penalties. When a person violates the prohibition described above in "Theft of a firearm or dangerous ordnance" and the violation involves property other than a firearm or involves services, existing law provides that the person is penalized as follows (R.C. 2903.02(B)):

(1) Generally, the violation is *petty theft*, a misdemeanor of the first degree. If the value of the property or services stolen is \$500 or more and is less than \$5,000 or if the property stolen is any of certain statutorily specified property, the violation is *theft*, a felony of the fifth degree. If the value of the property or services stolen is \$5,000 or more and is less than \$100,000, the violation is *grand theft*, a felony of the fourth degree. If the value of the property or services stolen is \$100,000 or more, the violation is *aggravated theft*, a felony of the third degree.

(2) If the victim of the offense is an elderly person or disabled adult, the violation generally is *theft from an elderly person or disabled adult*. Generally, theft from an elderly person or disabled adult is a felony of the fifth degree. If the value of the property or services stolen is \$500 or more and is less than \$5,000, it is a felony of the fourth degree. If the value is \$5,000 or more and is less than \$25,000, it is a felony of the third degree. If the value is \$25,000 or more, it is a felony of the second degree.

(3) If the property stolen is a motor vehicle, the violation is *grand theft of a motor vehicle*, a felony of the fourth degree.

(4) If the property stolen is any dangerous drug, the violation is *theft of drugs*, a felony of the fourth degree, or, if the offender previously has been convicted of a felony drug abuse offense, a felony of the third degree.

Other circumstances in which consecutive sentences are imposed under the Felony Sentencing Law. Under existing law, consecutive sentencing is required or authorized in the following cases:

(1) If a mandatory prison term is imposed upon an offender for having a firearm on or about the offender's person or under the offender's control while committing a felony or for committing a specified felony by discharging a firearm from a motor vehicle (required);

(2) If a mandatory prison term is imposed upon an offender for wearing or carrying body armor while committing an offense of violence that is a felony (required);

(3) If (a) an offender who is an inmate in a jail, prison, or other residential detention facility commits aggravated riot, riot, escape, or aiding escape or resistance to authority, (b) an offender who is under detention at a detention facility commits possession of a deadly weapon while under detention circumstances in which it is a felony, or (c) an offender who is an inmate in a jail, prison, or other residential detention facility or is under detention at a detention facility commits another felony while the offender is an escapee in violation of R.C. 2921.34 (escape) (required);

(4) If a prison term is imposed for an aggravated robbery in which the offender removed or attempted to remove a deadly weapon from a law enforcement officer or for a felony violation of failure to comply with an order or signal of a police officer in circumstances in which the person operated a motor vehicle so as willfully to elude or flee a police officer after receiving a visible or audible signal from a police officer to bring the person's motor vehicle to a stop (required);

(5) If multiple prison terms are imposed on an offender for convictions of multiple offenses, the court finds that the consecutive service is necessary to protect the public from future crime or to punish the offender and that consecutive sentences are not disproportionate to the seriousness of the offender's conduct and to the danger the offender poses to the public, and if the court also finds that the offender committed the multiple offenses while awaiting trial or sentencing or under a community control sanction or post-release control, the harm caused by the multiple offenses was so great or unusual that no single prison term for any of the offenses adequately reflects the seriousness of the offender's conduct, or the

offender's history of criminal conduct demonstrates that consecutive sentences are necessary (authorized). (R.C. 2929.14(E).)

Licensing scheme is law of general nature

The bill states that the General Assembly finds that licenses to carry concealed handguns are a matter of statewide concern and wishes to ensure uniformity throughout Ohio regarding the qualifications for a person to hold a license to carry a concealed handgun and the authority granted to a person holding a license of that nature. The bill further states that it is the intent of the General Assembly, in amending and enacting the sections of the Revised Code in the bill that relate to licenses to carry a concealed handgun, to enact laws of a general nature. The bill states that no municipal corporation may adopt or continue in existence any ordinance, and no township may adopt or continue in existence, any resolution that is in conflict with those sections including, but not limited to, any ordinance or resolution that attempts to restrict the places where a person possessing a valid license to carry a concealed handgun may carry that handgun concealed. (Section 9.)

Statement of legislative intent

The bill states that in amending and enacting the sections of the Revised Code in the bill that relate to licenses to carry a concealed handgun, the General Assembly declares its intent to recognize both of the following (Section 6):

(1) The inalienable and fundamental right of an individual to defend the individual's person and the members of the individual's family;

(2) The fact that the right described in (1) predates the adoption of the United States Constitution, the adoption of the Ohio Constitution, and the enactment of all statutory laws by the General Assembly and may not be infringed by any enactment of the General Assembly.

The bill further states that in enacting and amending the sections of the Revised Code in the bill relative to licenses to carry a concealed handgun, the General Assembly declares that it is not its intent to declare or otherwise give the impression that, prior to the bill's effective date, an individual did not have an inalienable and fundamental right, or a right under the Ohio Constitution or the United States Constitution, to carry a concealed handgun or other firearm for the defense of the individual's person or a member of the individual's family while engaged in lawful activity. The bill also states that it is not the General Assembly's intent to invalidate any prior convictions for violating any section of the Revised Code or a municipal ordinance prior to the effective date of the bill or

to prevent the prosecution of any violation committed prior to that effective date. (Section 7.)

Severability clause

The bill provides that if any provision of any of the listed sections of the Revised Code amended by the bill, any provision of any of the listed sections of the Revised Code enacted by the bill, or the application of any provision of those sections to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the particular section or related sections that can be given effect without the invalid provision or application, and to this end the provisions of the particular section are severable (Section 10).

COMMENT

It is unclear how a sheriff is to make this determination.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	05-24-01	p. 468
Reported, H. Civil & Commercial Law	03-20-02	p. 1594
Passed House (66-27)	03-21-02	pp. 1605-1612
Reported, S. Judiciary on Civil Justice	---	---

H0274-RS.124/jc