

# AN ACT

To amend sections 2923.121, 2923.125, 2923.128, 2923.16, 2953.321, 2953.33, and 2953.35 and to enact section 2953.37 of the Revised Code to permit a concealed carry licensee to possess a firearm in a liquor permit premises, or an open air arena, for which a D permit has been issued if the licensee is not consuming beer or intoxicating liquor or under the influence of alcohol or a drug of abuse, to modify the offense of improperly handling firearms in a motor vehicle as it applies to concealed carry licensees, and to authorize the expungement of a prior conviction of improperly handling firearms in a motor vehicle that no longer would be a crime under the bill.

*Be it enacted by the General Assembly of the State of Ohio:*

SECTION 1. That sections 2923.121, 2923.125, 2923.128, 2923.16, 2953.321, 2953.33, and 2953.35 be amended and section 2953.37 of the Revised Code be enacted to read as follows:

Sec. 2923.121. (A) No person shall possess a firearm in any room in which any person is consuming beer or intoxicating liquor in a premises for which a D permit has been issued under Chapter 4303. of the Revised Code or in an open air arena for which a permit of that nature has been issued.

(B)(1) This section does not apply to any of the following:

(a) An officer, agent, or employee of this or any other state or the United States, or to a law enforcement officer, who is authorized to carry firearms and is acting within the scope of the officer's, agent's, or employee's duties;

(b) Any person who is employed in this state, who is authorized to carry firearms, and who is subject to and in compliance with the requirements of section 109.801 of the Revised Code, unless the appointing authority of the person has expressly specified that the exemption provided in division

(B)(1)(b) of this section does not apply to the person;

(c) Any room used for the accommodation of guests of a hotel, as defined in section 4301.01 of the Revised Code;

(d) The principal holder of a D permit issued for a premises or an open air arena under Chapter 4303. of the Revised Code while in the premises or open air arena for which the permit was issued if the principal holder of the D permit also possesses a valid license or temporary emergency license to carry a concealed handgun issued to the principal holder under section 2923.125 or 2923.1213 of the Revised Code or a license to carry a concealed handgun that was issued to the principal holder by another state with which the attorney general has entered into a reciprocity agreement under section 109.69 of the Revised Code and as long as the principal holder is not consuming beer or intoxicating liquor or under the influence of alcohol or a drug of abuse, or any agent or employee of that holder who also is a peace officer, as defined in section 2151.3515 of the Revised Code, who is off duty, and who otherwise is authorized to carry firearms while in the course of the officer's official duties and while in the premises or open air arena for which the permit was issued and as long as the agent or employee of that holder is not consuming beer or intoxicating liquor or under the influence of alcohol or a drug of abuse.

(e) Any person who is carrying a valid license or temporary emergency license to carry a concealed handgun issued to the person under section 2923.125 or 2923.1213 of the Revised Code or a license to carry a concealed handgun that was issued to the person by another state with which the attorney general has entered into a reciprocity agreement under section 109.69 of the Revised Code ~~and who possesses the firearm in a retail store with D-6 and D-8 permits issued for that store under sections 4303.182 and 4303.184 of the Revised Code or a D-8 permit issued for that store under section 4303.184 of the Revised Code~~, as long as the person is not consuming beer or intoxicating liquor or under the influence of alcohol or a drug of abuse.

(2) This section does not prohibit any person who is a member of a veteran's organization, as defined in section 2915.01 of the Revised Code, from possessing a rifle in any room in any premises owned, leased, or otherwise under the control of the veteran's organization, if the rifle is not loaded with live ammunition and if the person otherwise is not prohibited by law from having the rifle.

(3) This section 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 established pursuant to Chapter 345. of the Revised

Code, 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.

(C) It is an affirmative defense to a charge under this section of illegal possession of a firearm in a liquor permit premises that involves the possession of a firearm other than a handgun, that the actor was not otherwise prohibited by law from having the firearm, and that any 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.

(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.

(D) No person who is charged with a violation of this section shall be required to obtain a license or temporary emergency license to carry a concealed handgun under section 2923.125 or 2923.1213 of the Revised Code as a condition for the dismissal of the charge.

(E) Whoever violates this section is guilty of illegal possession of a firearm in a liquor permit premises. Except as otherwise provided in this division, illegal possession of a firearm in a liquor permit premises is a felony of the fifth degree. If the offender commits the violation of this section by knowingly carrying or having the firearm concealed on the offender's person or concealed ready at hand, illegal possession of a firearm in a liquor permit premises is a felony of the third degree.

(F) As used in this section, "beer" and "intoxicating liquor" have the same meanings as in section 4301.01 of the Revised Code.

Sec. 2923.125. (A) Upon the request of a person who wishes to obtain a license to carry a concealed handgun or to renew a license to carry a concealed handgun, a sheriff, as provided in division (I) of this section, shall provide to the person free of charge an application form and the web site address at which the pamphlet described in division (B) of section 109.731 of the Revised Code may be found. A sheriff shall accept a completed application form and the fee, items, materials, and information specified in

divisions (B)(1) to (5) of this section at the times and in the manners described in division (I) of this section.

(B) An applicant for a license to carry a concealed handgun shall submit a 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:

(1)(a) A nonrefundable license fee as described in either of the following:

(i) For an applicant who has been a resident of this state for five or more years, a fee of sixty-seven dollars;

(ii) For an applicant who has been a resident of this state for less than five years, a fee of sixty-seven dollars plus the actual cost of having a background check performed by the federal bureau of investigation.

(b) No sheriff shall require an applicant to pay for the cost of a background check performed by the bureau of criminal identification and investigation.

(c) A sheriff shall waive the payment of the license fee described in division (B)(1)(a) of this section in connection with an initial or renewal application for a license that is submitted by an applicant who is a retired peace officer, a retired person described in division (B)(1)(b) of section 109.77 of the Revised Code, 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, person, or federal law enforcement officer retired as the result of a mental disability.

(d) The sheriff shall deposit all fees paid by an applicant under division (B)(1)(a) of this section into the sheriff's concealed handgun license issuance fund established pursuant to section 311.42 of the Revised Code. The county shall distribute the fees in accordance with section 311.42 of the Revised Code.

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

(3) One or more of the following competency certifications, each of which shall reflect that, regarding a certification described in division (B)(3)(a), (b), (c), (e), or (f) of this section, within the three years immediately preceding the application the applicant has performed that to which the competency certification relates and that, regarding a certification described in division (B)(3)(d) of this section, the applicant currently is an active or reserve member of the armed forces of the United States or within the six years immediately preceding the application the honorable discharge or retirement to which the competency certification relates occurred:

(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 set forth in division (G) of this section;

(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 satisfies all of the following criteria:

(i) It was open to members of the general public.

(ii) It utilized qualified instructors who were certified by the national rifle association, the executive director of the Ohio peace officer training commission pursuant to section 109.75 or 109.78 of the Revised Code, or a governmental official or entity of another state.

(iii) It was offered by or under the auspices of a law enforcement agency of this or another state or the United States, a public or private college, university, or other similar postsecondary educational institution located in this or another state, a firearms training school located in this or another state, or another type of public or private entity or organization located in this or another state.

(iv) It complies with the requirements set forth in division (G) of this section.

(c) An original or photocopy of a certificate of completion of a state, county, municipal, or department of natural resources peace officer training school that is approved by the executive director of the Ohio peace officer training commission pursuant to section 109.75 of the Revised Code and that complies with the requirements set forth in division (G) of this section, 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 section 109.78 or 109.801 of the Revised Code that complies with the requirements set forth in division (G) of this section;

(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, is a retired trooper of the state highway patrol, or is a retired peace officer or federal law enforcement officer described in division (B)(1) of this section or a retired person described in division (B)(1)(b) of section 109.77 of the Revised Code and division (B)(1) of this section;

(ii) That, through participation in the military service or through the

former employment described in division (B)(3)(d)(i) of this section, 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 in division (B)(3)(a), (b), or (c) of this section.

(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 in division (B)(3)(a), (b), (c), or (d) of this section, that was conducted by an instructor who was certified by an official or entity of the government of this or another state or the United States or by the national rifle association, and that complies with the requirements set forth in division (G) of this section;

(f) An affidavit that attests to the applicant's satisfactory completion of a course, class, or program described in division (B)(3)(a), (b), (c), or (e) of this section 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 certification by the applicant that the applicant has read the pamphlet prepared by the Ohio peace officer training commission pursuant to section 109.731 of the Revised Code that reviews firearms, dispute resolution, and use of deadly force matters.

(5) A set of fingerprints of the applicant provided as described in section 311.41 of the Revised Code through use of an electronic fingerprint reading device or, if the sheriff to whom the application is submitted does not possess and does not have ready access to the use of such a reading device, on a standard impression sheet prescribed pursuant to division (C)(2) of section 109.572 of the Revised Code.

(C) Upon receipt of an applicant's completed application form, supporting documentation, and, if not waived, license fee, a sheriff, in the manner specified in section 311.41 of the Revised Code, shall conduct or cause to be conducted the criminal records check and the incompetency records check described in section 311.41 of the Revised Code.

(D)(1) Except as provided in division (D)(3) or (4) of this section, within forty-five days after a sheriff's receipt of an applicant's completed application form for a license to carry a concealed handgun, the supporting documentation, and, if not waived, the license fee, the sheriff shall make available through the law enforcement automated data system in accordance with division (H) of this section the information described in that division and, upon making the information available through the system, shall issue to the applicant a license to carry a concealed handgun that shall expire as

described in division (D)(2)(a) of this section if all of the following apply:

(a) The applicant is legally living in the United States, has been a resident of this state for at least forty-five days, and has been 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 thirty days. For purposes of division (D)(1)(a) of this section:

(i) If a person is absent from the United States, from this state, or from a particular county in this state in compliance with military or naval orders as an active or reserve member of the armed forces of the United States and if prior to leaving this state in compliance with those orders the person was legally living in the United States and was a resident of this state, the person, solely by reason of that absence, shall not be considered to have lost the person's status as living in the United States or the person's residence in this state or in the county in which the person was a resident prior to leaving this state in compliance with those orders, without regard to whether or not the person intends to return to this state or to that county, shall not be considered to have acquired a residence in any other state, and shall not be considered to have become a resident of any other state.

(ii) If a person is present in this state in compliance with military or naval orders as an active or reserve member of the armed forces of the United States for at least forty-five days, the person shall be considered to have been a resident of this state for that period of at least forty-five days, and, if a person is present in a county of this state in compliance with military or naval orders as an active or reserve member of the armed forces of the United States for at least thirty days, the person shall be considered to have been a resident of that county for that period of at least thirty days.

(b) The applicant is at least twenty-one years of age.

(c) The applicant is not a fugitive from justice.

(d) The applicant is not under indictment for or otherwise charged with a felony; an offense under Chapter 2925., 3719., or 4729. of the Revised Code that involves the illegal possession, use, sale, administration, or distribution of or trafficking in a drug of abuse; a misdemeanor offense of violence; or a violation of section 2903.14 or 2923.1211 of the Revised Code.

(e) Except as otherwise provided in division (D)(5) of this section, the applicant has not been convicted of or pleaded guilty to a felony or an offense under Chapter 2925., 3719., or 4729. of the Revised Code that involves the illegal possession, use, sale, administration, or distribution of or trafficking in a drug of abuse; has not been adjudicated a delinquent child for committing an act that if committed by an adult would be a felony or

would be an offense under Chapter 2925., 3719., or 4729. of the Revised Code that involves the illegal possession, use, sale, administration, or distribution of or trafficking in a drug of abuse; and has not been convicted of, pleaded guilty to, or adjudicated a delinquent child for committing a violation of section 2903.13 of the Revised Code when the victim of the violation is a peace officer, regardless of whether the applicant was sentenced under division (C)(3) of that section.

(f) Except as otherwise provided in division (D)(5) of this section, the applicant, within three years of the date of the application, has not been convicted of or pleaded guilty to a misdemeanor offense of violence other than a misdemeanor violation of section 2921.33 of the Revised Code or a violation of section 2903.13 of the Revised Code when the victim of the violation is a peace officer, or a misdemeanor violation of section 2923.1211 of the Revised Code; and has not been adjudicated a delinquent child for committing an act that if committed by an adult would be a misdemeanor offense of violence other than a misdemeanor violation of section 2921.33 of the Revised Code or a violation of section 2903.13 of the Revised Code when the victim of the violation is a peace officer or for committing an act that if committed by an adult would be a misdemeanor violation of section 2923.1211 of the Revised Code.

(g) Except as otherwise provided in division (D)(1)(e) of this section, the applicant, within five years of the date of the application, has not been convicted of, pleaded guilty to, or adjudicated a delinquent child for committing two or more violations of section 2903.13 or 2903.14 of the Revised Code.

(h) Except as otherwise provided in division (D)(5) of this section, the applicant, within ten years of the date of the application, has not been convicted of, pleaded guilty to, or adjudicated a delinquent child for committing a violation of section 2921.33 of the Revised Code.

(i) The applicant has not been adjudicated as a mental defective, has not been committed to any mental institution, is not under adjudication of mental incompetence, has not been found by a court to be a mentally ill person subject to hospitalization by court order, and is not an involuntary patient other than one who is a patient only for purposes of observation. As used in this division, "mentally ill person subject to hospitalization by court order" and "patient" have the same meanings as in section 5122.01 of the Revised Code.

(j) The applicant is not currently subject to a civil protection order, a temporary protection order, or a protection order issued by a court of another state.



(k) 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.

(l) The applicant submits a competency certification of the type described in division (B)(3) of this section and submits a certification of the type described in division (B)(4) of this section regarding the applicant's reading of the pamphlet prepared by the Ohio peace officer training commission pursuant to section 109.731 of the Revised Code.

(m) The applicant currently is not subject to a suspension imposed under division (A)(2) of section 2923.128 of the Revised Code of a license to carry a concealed handgun, or a temporary emergency license to carry a concealed handgun, that previously was issued to the applicant under this section or section 2923.1213 of the Revised Code.

(2)(a) A license to carry a concealed handgun that a sheriff issues under division (D)(1) of this section on or after March 14, 2007, shall expire five years after the date of issuance. A license to carry a concealed handgun that a sheriff issued under division (D)(1) of this section prior to March 14, 2007, shall expire four years after the date of issuance.

If a sheriff issues a license under this section, the sheriff shall place on the license a unique combination of letters and numbers identifying the license in accordance with the procedure prescribed by the Ohio peace officer training commission pursuant to section 109.731 of the Revised Code.

(b) If a sheriff denies an application under this section because the applicant does not satisfy the criteria described in division (D)(1) of this section, the sheriff shall specify the grounds for the denial in a written notice to the applicant. The applicant may appeal the denial pursuant to section 119.12 of the Revised Code in the county served by the sheriff who denied the application. If the denial was as a result of the criminal records check conducted pursuant to section 311.41 of the Revised Code and if, pursuant to section 2923.127 of the Revised Code, the applicant challenges the criminal records check results using the appropriate challenge and review procedure specified in that section, the time for filing the appeal pursuant to section 119.12 of the Revised Code and this division is tolled during the pendency of the request or the challenge and review. If the court in an appeal under section 119.12 of the Revised Code and this division 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 shall not restrict the

authority of a sheriff to suspend or revoke the license pursuant to section 2923.128 or 2923.1213 of the Revised Code 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 shall have full power to dispose of all costs.

(3) If the sheriff with whom an application for a license to carry a concealed handgun was filed under this section 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 shall suspend the processing of the application until the disposition of the case arising from the arrest or charge.

(4) If the sheriff determines that the applicant is legally living in the United States and 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 described in division (D)(1)(a) of this section, the sheriff shall not deny the license because of the residency requirements but shall not issue the license until the applicant meets those residency requirements.

(5) If an applicant has been convicted of or pleaded guilty to an offense identified in division (D)(1)(e), (f), or (h) of this section or has been adjudicated a delinquent child for committing an act or violation identified in any of those divisions, and if a court has ordered the sealing or expungement of the records of that conviction, guilty plea, or adjudication pursuant to sections 2151.355 to 2151.358 ~~or~~, sections 2953.31 to 2953.36, or section 2953.37 of the Revised Code or a court has granted the applicant relief pursuant to section 2923.14 of the Revised Code from the disability imposed pursuant to section 2923.13 of the Revised Code relative to that conviction, guilty plea, or adjudication, the sheriff with whom the application was submitted shall not consider the conviction, guilty plea, or adjudication in making a determination under division (D)(1) or (F) of this section or, in relation to an application for a temporary emergency license to carry a concealed handgun submitted under section 2923.1213 of the Revised Code, in making a determination under division (B)(2) of that section.

(E) If a license to carry a concealed handgun issued under this section is lost or is destroyed, the licensee may obtain from the sheriff who issued that license a duplicate license upon the payment of a fee of fifteen dollars and the submission of an affidavit attesting to the loss or destruction of the license. The sheriff, in accordance with the procedures prescribed in section 109.731 of the Revised Code, shall place on the replacement license a combination of identifying numbers different from the combination on the license that is being replaced.

(F)(1) A licensee who wishes to renew a license to carry a concealed handgun issued under this section shall do so not earlier than ninety days before the expiration date of the license or at any time 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 pursuant to division (D) of this section, a certification by the applicant that, subsequent to the issuance of the license, the applicant has reread the pamphlet prepared by the Ohio peace officer training commission pursuant to section 109.731 of the Revised Code that reviews firearms, dispute resolution, and use of deadly force matters, a nonrefundable license renewal fee in an amount determined pursuant to division (F)(4) of this section unless the fee is waived, and one of the following:

(a) If the licensee previously has not renewed a license to carry a concealed handgun issued under this section, proof that the licensee at one time had a competency certification of the type described in division (B)(3) of this section. A valid license, expired license, or any other previously issued license that has not been revoked is prima-facie evidence that the licensee at one time had a competency certification of the type described in division (B)(3) of this section.

(b) If the licensee previously has renewed a license to carry a concealed handgun issued under this section, a renewed competency certification of the type described in division (G)(4) of this section.

(2) A sheriff shall accept a completed renewal application, the license renewal fee, and information specified in division (F)(1) of this section at the times and in the manners described in division (I) of this section. Upon receipt of a completed renewal application, of certification that the applicant has reread the specified pamphlet prepared by the Ohio peace officer training commission, of proof of a prior competency certification for an initial renewal or of a renewed competency certification for a second or subsequent renewal, and of a license renewal fee unless the fee is waived, a sheriff, in the manner specified in section 311.41 of the Revised Code shall conduct or cause to be conducted the criminal records check and the incompetency records check described in section 311.41 of the Revised Code. The sheriff shall renew the license if the sheriff determines that the applicant continues to satisfy the requirements described in division (D)(1) of this section, except that the applicant is not required to meet the requirements of division (D)(1)(l) of this section. A renewed license that is renewed on or after March 14, 2007, shall expire five years after the date of issuance, and a renewed license that is renewed prior to March 14, 2007,

shall expire four years after the date of issuance. A renewed license is subject to division (E) of this section and sections 2923.126 and 2923.128 of the Revised Code. A sheriff shall comply with divisions (D)(2) to (4) of this section when the circumstances described in those divisions apply to a requested license renewal. If a sheriff denies the renewal of a license to carry a concealed handgun, the applicant may appeal the denial, or challenge the criminal record check results that were the basis of the denial if applicable, in the same manner as specified in division (D)(2)(b) of this section and in section 2923.127 of the Revised Code, regarding the denial of a license under this section.

(3) A renewal application submitted pursuant to division (F) of this section shall only require the licensee to list on the application form information and matters occurring since the date of the licensee's last application for a license pursuant to division (B) or (F) of this section. A sheriff conducting the criminal records check and the incompetency records check described in section 311.41 of the Revised Code shall conduct the check only from the date of the licensee's last application for a license pursuant to division (B) or (F) of this section through the date of the renewal application submitted pursuant to division (F) of this section.

(4) An applicant for a renewal license to carry a concealed handgun shall submit 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 a nonrefundable license fee as described in either of the following:

(a) For an applicant who has been a resident of this state for five or more years, a fee of fifty dollars;

(b) For an applicant who has been a resident of this state for less than five years, a fee of fifty dollars plus the actual cost of having a background check performed by the federal bureau of investigation.

(G)(1) Each course, class, or program described in division (B)(3)(a), (b), (c), or (e) of this section shall provide to each person who takes the course, class, or program the web site address at which the pamphlet prepared by the Ohio peace officer training commission pursuant to section 109.731 of the Revised Code that reviews firearms, dispute resolution, and use of deadly force matters may be found. Each such course, class, or program described in one of those divisions shall include at least twelve hours of training in the safe handling and use of a firearm that shall include all of the following:

(a) At least ten hours of training on the following matters:

(i) The ability to name, explain, and demonstrate the rules for safe handling of a handgun and proper storage practices for handguns and

ammunition;

(ii) The ability to demonstrate and explain how to handle ammunition in a safe manner;

(iii) The ability to demonstrate the knowledge, skills, and attitude necessary to shoot a handgun in a safe manner;

(iv) Gun handling training.

(b) At least two hours of training that consists of range time and live-fire training.

(2) To satisfactorily complete the course, class, or program described in division (B)(3)(a), (b), (c), or (e) of this section, the applicant shall pass a competency examination that shall include both of the following:

(a) A written section on the ability to name and explain the rules for the safe handling of a handgun and proper storage practices for handguns and ammunition;

(b) A physical demonstration of competence in the use of a handgun 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.

(3) The competency certification described in division (B)(3)(a), (b), (c), or (e) of this section shall be dated and shall attest that the course, class, or program the applicant successfully completed met the requirements described in division (G)(1) of this section and that the applicant passed the competency examination described in division (G)(2) of this section.

(4) A person who previously has received a competency certification as described in division (B)(3) of this section, or who previously has received a renewed competency certification as described in this division, may obtain a renewed competency certification pursuant to this division. If the person previously has received a competency certification or previously has received a renewed competency certification, the person may obtain a renewed competency certification from an entity that offers a course, class, or program described in division (B)(3)(a), (b), (c), or (e) of this section by passing a test that demonstrates that the person is range competent. In these circumstances, the person is not required to attend the course, class, or program or to take the competency examination described in division (G)(2) of this section for the renewed competency certification in order to be eligible to receive a renewed competency certification. A renewed competency certification issued under this division shall be dated and shall attest that the person has demonstrated range competency.

(H) Upon deciding to issue a license, deciding to issue a replacement license, or deciding to renew a license to carry a concealed handgun pursuant to this section, and before actually issuing or renewing the license,

the sheriff shall make available through the law enforcement automated data system all information contained on the license. If the license subsequently is suspended under division (A)(1) or (2) of section 2923.128 of the Revised Code, revoked pursuant to division (B)(1) of section 2923.128 of the Revised Code, or lost or destroyed, the sheriff also shall make available through the law enforcement automated data system a notation of that fact. The superintendent of the state highway patrol shall ensure that the law enforcement automated data system is so configured as to permit the transmission through the system of the information specified in this division.

(I) A sheriff shall accept a completed application form or renewal application, and the fee, items, materials, and information specified in divisions (B)(1) to (5) or division (F) of this section, whichever is applicable, and shall provide an application form or renewal application to any person during at least fifteen hours a week and shall provide the web site address at which the pamphlet described in division (B) of section 109.731 of the Revised Code may be found at any time, upon request. The sheriff shall post notice of the hours during which the sheriff is available to accept or provide the information described in this division.

Sec. 2923.128. (A)(1)(a) If a licensee holding a valid license issued under section 2923.125 or 2923.1213 of the Revised Code is arrested for or otherwise charged with an offense described in division (D)(1)(d) of section 2923.125 of the Revised Code or with a violation of section 2923.15 of the Revised Code or becomes subject to a temporary protection order or to a protection order issued by a court of another state that is substantially equivalent to a temporary protection order, the sheriff who issued the license or temporary emergency license shall suspend it and shall comply with division (A)(3) of this section upon becoming aware of the arrest, charge, or protection order. Upon suspending the license or temporary emergency license, the sheriff also shall comply with division (H) of section 2923.125 of the Revised Code.

(b) A suspension under division (A)(1)(a) of this section shall be considered as beginning on the date that the licensee is arrested for or otherwise charged with an offense described in that division or on the date the appropriate court issued the protection order described in that division, irrespective of when the sheriff notifies the licensee under division (A)(3) of this section. The suspension shall end on the date on which the charges are dismissed or the licensee is found not guilty of the offense described in division (A)(1)(a) of this section or, subject to division (B) of this section, on the date the appropriate court terminates the protection order described in that division. If the suspension so ends, the sheriff shall return the license or

temporary emergency license to the licensee.

(2)(a) If a licensee holding a valid license issued under section 2923.125 or 2923.1213 of the Revised Code is convicted of or pleads guilty to a misdemeanor violation of division (B)(1), (2), or (4) of section 2923.12 of the Revised Code or of division (E)(1), (2), (3), ~~(4)~~, or ~~(6)(5)~~ of section 2923.16 of the Revised Code, except as provided in division (A)(2)(c) of this section and subject to division (C) of this section, the sheriff who issued the license or temporary emergency license shall suspend it and shall comply with division (A)(3) of this section upon becoming aware of the conviction or guilty plea. Upon suspending the license or temporary emergency license, the sheriff also shall comply with division (H) of section 2923.125 of the Revised Code.

(b) A suspension under division (A)(2)(a) of this section shall be considered as beginning on the date that the licensee is convicted of or pleads guilty to the offense described in that division, irrespective of when the sheriff notifies the licensee under division (A)(3) of this section. If the suspension is imposed for a misdemeanor violation of division (B)(1) or (2) of section 2923.12 of the Revised Code or of division (E)(1), (2), or (3) ~~or (4)~~ of section 2923.16 of the Revised Code, it shall end on the date that is one year after the date that the licensee is convicted of or pleads guilty to that violation. If the suspension is imposed for a misdemeanor violation of division (B)(4) of section 2923.12 of the Revised Code or of division (E)~~(6)(5)~~ of section 2923.16 of the Revised Code, it shall end on the date that is two years after the date that the licensee is convicted of or pleads guilty to that violation. If the licensee's license was issued under section 2923.125 of the Revised Code and the license remains valid after the suspension ends as described in this division, when the suspension ends, the sheriff shall return the license to the licensee. If the licensee's license was issued under section 2923.125 of the Revised Code and the license expires before the suspension ends as described in this division, or if the licensee's license was issued under section 2923.1213 of the Revised Code, the licensee is not eligible to apply for a new license under section 2923.125 or 2923.1213 of the Revised Code or to renew the license under section 2923.125 of the Revised Code until after the suspension ends as described in this division.

(c) The license of a licensee who is convicted of or pleads guilty to a violation of division (B)(1) of section 2923.12 or division (E)~~(3)(1) or (2)~~ of section 2923.16 of the Revised Code shall not be suspended pursuant to division (A)(2)(a) of this section if, at the time of the stop of the licensee for a law enforcement purpose, for a traffic stop, or for a purpose defined in

section 5503.34 of the Revised Code that was the basis of the violation, any law enforcement officer involved with the stop or the employee of the motor carrier enforcement unit who made the stop had actual knowledge of the licensee's status as a licensee.

(3) Upon becoming aware of an arrest, charge, or protection order described in division (A)(1)(a) of this section with respect to a licensee who was issued a license under section 2923.125 or 2923.1213 of the Revised Code, or a conviction of or plea of guilty to a misdemeanor offense described in division (A)(2)(a) of this section with respect to a licensee who was issued a license under either section and with respect to which division (A)(2)(c) of this section does not apply, subject to division (C) of this section, the sheriff who issued the licensee's license or temporary emergency license to carry a concealed handgun shall notify the licensee, by certified mail, return receipt requested, at the licensee's last known residence address that the license or temporary emergency license has been suspended and that the licensee is required to surrender the license or temporary emergency license at the sheriff's office within ten days of the date on which the notice was mailed. If the suspension is pursuant to division (A)(2) of this section, the notice shall identify the date on which the suspension ends.

(B)(1) A sheriff who issues a license or temporary emergency license to carry a concealed handgun to a licensee under section 2923.125 or 2923.1213 of the Revised Code shall revoke the license or temporary emergency license in accordance with division (B)(2) of this section upon becoming aware that the licensee satisfies any of the following:

(a) The licensee is under twenty-one years of age.

(b) Subject to division (C) of this section, at the time of the issuance of the license or temporary emergency license, the licensee did not satisfy the eligibility requirements of division (D)(1)(c), (d), (e), (f), (g), or (h) of section 2923.125 of the Revised Code.

(c) Subject to division (C) of this section, on or after the date on which the license or temporary emergency license was issued, the licensee is convicted of or pleads guilty to a violation of section 2923.15 of the Revised Code or an offense described in division (D)(1)(e), (f), (g), or (h) of section 2923.125 of the Revised Code.

(d) On or after the date on which the license or temporary emergency license was issued, the licensee becomes subject to a civil protection order or to a protection order issued by a court of another state that is substantially equivalent to a civil protection order.

(e) The licensee knowingly carries a concealed handgun into a place that the licensee knows is an unauthorized place specified in division (B) of



section 2923.126 of the Revised Code.

(f) On or after the date on which the license or temporary emergency license was issued, the licensee is adjudicated as a mental defective or is committed to a mental institution.

(g) At the time of the issuance of the license or temporary emergency license, the licensee did not meet the residency requirements described in division (D)(1) of section 2923.125 of the Revised Code and currently does not meet the residency requirements described in that division.

(h) Regarding a license issued under section 2923.125 of the Revised Code, the competency certificate the licensee submitted was forged or otherwise was fraudulent.

(2) Upon becoming aware of any circumstance listed in division (B)(1) of this section that applies to a particular licensee who was issued a license under section 2923.125 or 2923.1213 of the Revised Code, subject to division (C) of this section, the sheriff who issued the license or temporary emergency license to carry a concealed handgun to the licensee shall notify the licensee, by certified mail, return receipt requested, at the licensee's last known residence address that the license or temporary emergency license is subject to revocation and that the licensee may come to the sheriff's office and contest the sheriff's proposed revocation within fourteen days of the date on which the notice was mailed. After the fourteen-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 is described in division (B)(1) of this section and no longer satisfies the requirements described in division (D)(1) of section 2923.125 of the Revised Code that are applicable to the licensee's type of license, the sheriff shall revoke the license or temporary emergency license, notify the licensee of that fact, and require the licensee to surrender the license or temporary emergency license. Upon revoking the license or temporary emergency license, the sheriff also shall comply with division (H) of section 2923.125 of the Revised Code.

(C) If a sheriff who issues a license or temporary emergency license to carry a concealed handgun to a licensee under section 2923.125 or 2923.1213 of the Revised Code becomes aware that at the time of the issuance of the license or temporary emergency license the licensee had been convicted of or pleaded guilty to an offense identified in division (D)(1)(e), (f), or (h) of section 2923.125 of the Revised Code or had been adjudicated a delinquent child for committing an act or violation identified in any of those divisions or becomes aware that on or after the date on which the license or temporary emergency license was issued the licensee has been

convicted of or pleaded guilty to an offense identified in division (A)(2)(a) or (B)(1)(c) of this section, the sheriff shall not consider that conviction, guilty plea, or adjudication as having occurred for purposes of divisions (A)(2), (A)(3), (B)(1), and (B)(2) of this section if a court has ordered the sealing or expungement of the records of that conviction, guilty plea, or adjudication pursuant to sections 2151.355 to 2151.358 or sections 2953.31 to 2953.36 of the Revised Code or a court has granted the licensee relief pursuant to section 2923.14 of the Revised Code from the disability imposed pursuant to section 2923.13 of the Revised Code relative to that conviction, guilty plea, or adjudication.

(D) As used in this section, "motor carrier enforcement unit" has the same meaning as in section 2923.16 of the Revised Code.

Sec. 2923.16. (A) No person shall knowingly discharge a firearm while in or on a motor vehicle.

(B) No person shall knowingly transport or have a loaded firearm in a motor vehicle in such a manner that the firearm is accessible to the operator or any passenger without leaving the vehicle.

(C) No person shall knowingly transport or have a firearm in a motor vehicle, unless the person may lawfully possess that firearm under applicable law of this state or the United States, the firearm is unloaded, and the firearm is carried in one of the following ways:

- (1) In a closed package, box, or case;
- (2) In a compartment that can be reached only by leaving the vehicle;
- (3) In plain sight and secured in a rack or holder made for the purpose;
- (4) If the firearm is at least twenty-four inches in overall length as measured from the muzzle to the part of the stock furthest from the muzzle and if the barrel is at least eighteen inches in length, either 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.

(D) No person shall knowingly transport or have a loaded handgun in a motor vehicle if, at the time of that transportation or possession, any of the following applies:

(1) The person is under the influence of alcohol, a drug of abuse, or a combination of them.

(2) The person's whole blood, blood serum or plasma, breath, or urine contains a concentration of alcohol, a listed controlled substance, or a listed metabolite of a controlled substance prohibited for persons operating a vehicle, as specified in division (A) of section 4511.19 of the Revised Code, regardless of whether the person at the time of the transportation or

possession as described in this division is the operator of or a passenger in the motor vehicle.

(E) No person who has been issued a license or temporary emergency license to carry a concealed handgun under section 2923.125 or 2923.1213 of the Revised Code shall do any of the following:

~~(1) Knowingly transport or have a loaded handgun in a motor vehicle unless one of the following applies:~~

~~(a) The loaded handgun is in a holster on the person's person.~~

~~(b) The loaded handgun is in a closed case, bag, box, or other container that is in plain sight and that has a lid, a cover, or a closing mechanism with a zipper, snap, or buckle, which lid, cover, or closing mechanism must be opened for a person to gain access to the handgun.~~

~~(c) The loaded handgun is securely encased by being stored in a closed glove compartment or vehicle console or in a case that is locked.~~

~~(2) If the person is transporting or has a loaded handgun in a motor vehicle in a manner authorized under division (E)(1) of this section, knowingly remove or attempt to remove the loaded handgun from the holster, case, bag, box, container, or glove compartment, knowingly grasp or hold the loaded handgun, or knowingly have contact with the loaded handgun by touching it with the person's hands or fingers while the motor vehicle is being operated on a street, highway, or public property unless the person removes, attempts to remove, grasps, holds, or has the contact with the loaded handgun pursuant to and in accordance with directions given by a law enforcement officer;~~

~~(3) If the person or a license to carry a concealed handgun that was issued to the person by another state with which the attorney general has entered into a reciprocity agreement under section 109.69 of the Revised Code, who is the driver or an occupant of a motor vehicle that is stopped as a result of a traffic stop or a stop for another law enforcement purpose or is the driver or an occupant of a commercial motor vehicle that is stopped by an employee of the motor carrier enforcement unit for the purposes defined in section 5503.34 of the Revised Code, and if the person who is transporting or has a loaded handgun in the motor vehicle or commercial motor vehicle in any manner, fail to shall do any of the following that is applicable:~~

~~(a) If the person is the driver or an occupant of a motor vehicle stopped as a result of a traffic stop or a stop for another law enforcement purpose, fail (1) Fail to promptly inform any law enforcement officer who approaches the vehicle while stopped that the person has been issued a license or temporary emergency license to carry a concealed handgun and that the~~

person then possesses or has a loaded handgun in the motor vehicle;

~~(b) If the person is the driver or an occupant of a commercial motor vehicle stopped by an employee of the motor carrier enforcement unit for any of the defined purposes, fail~~ (2) Fail to promptly inform the employee of the unit who approaches the vehicle while stopped that the person has been issued a license or temporary emergency license to carry a concealed handgun and that the person then possesses or has a loaded handgun in the commercial motor vehicle;

~~(4) If the person is the driver or an occupant of a motor vehicle that is stopped as a result of a traffic stop or a stop for another law enforcement purpose and if the person is transporting or has a loaded handgun in the motor vehicle in any manner, knowingly;~~

(3) Knowingly fail to remain in the motor vehicle while stopped or knowingly fail to keep the person's hands in plain sight at any time after any law enforcement officer begins approaching the person while stopped and before the law enforcement officer leaves, unless the failure is pursuant to and in accordance with directions given by a law enforcement officer;

~~(5) If the person is the driver or an occupant of a motor vehicle that is stopped as a result of a traffic stop or a stop for another law enforcement purpose, if the person is transporting or has a loaded handgun in the motor vehicle in a manner authorized under division (E)(1) of this section, and if the person is approached by any law enforcement officer while stopped, knowingly remove or attempt to remove the loaded handgun from the holster, case, bag, box, container, or glove compartment, knowingly grasp or hold the loaded handgun, or knowingly~~ (4) Knowingly have contact with the loaded handgun by touching it with the person's hands or fingers in the motor vehicle at any time after the law enforcement officer begins approaching and before the law enforcement officer leaves, unless the person removes, attempts to remove, grasps, holds, or has contact with the loaded handgun pursuant to and in accordance with directions given by the law enforcement officer;

~~(6) If the person is the driver or an occupant of a motor vehicle that is stopped as a result of a traffic stop or a stop for another law enforcement purpose and if the person is transporting or has a loaded handgun in the motor vehicle in any manner, knowingly~~ (5) Knowingly disregard or fail to comply with any lawful order of any law enforcement officer given while the motor vehicle is stopped, including, but not limited to, a specific order to the person to keep the person's hands in plain sight.

(F)(1) Divisions (A), (B), (C), and (E) of this section do not apply to any of the following:

(a) An officer, agent, or employee of this or any other state or the United States, or a law enforcement officer, when authorized to carry or have loaded or accessible firearms in motor vehicles and acting within the scope of the officer's, agent's, or employee's duties;

(b) Any person who is employed in this state, who is authorized to carry or have loaded or accessible firearms in motor vehicles, and who is subject to and in compliance with the requirements of section 109.801 of the Revised Code, unless the appointing authority of the person has expressly specified that the exemption provided in division (F)(1)(b) of this section does not apply to the person.

(2) Division (A) of this section does not apply to a person if all of the following circumstances apply:

(a) The person discharges a firearm from a motor vehicle at a coyote or groundhog, the discharge is not during the deer gun hunting season as set by the chief of the division of wildlife of the department of natural resources, and the discharge at the coyote or groundhog, but for the operation of this section, is lawful.

(b) The motor vehicle from which the person discharges the firearm is on real property that is located in an unincorporated area of a township and that either is zoned for agriculture or is used for agriculture.

(c) The person owns the real property described in division (F)(2)(b) of this section, is the spouse or a child of another person who owns that real property, is a tenant of another person who owns that real property, or is the spouse or a child of a tenant of another person who owns that real property.

(d) The person does not discharge the firearm in any of the following manners:

(i) While under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse;

(ii) In the direction of a street, highway, or other public or private property used by the public for vehicular traffic or parking;

(iii) At or into an occupied structure that is a permanent or temporary habitation;

(iv) In the commission of any violation of law, including, but not limited to, a felony that includes, as an essential element, purposely or knowingly causing or attempting to cause the death of or physical harm to another and that was committed by discharging a firearm from a motor vehicle.

(3) Division (A) of this section does not apply to a person if all of the following apply:

(a) The person possesses a valid electric-powered all-purpose vehicle

permit issued under section 1533.103 of the Revised Code by the chief of the division of wildlife.

(b) The person discharges a firearm at a wild quadruped or game bird as defined in section 1531.01 of the Revised Code during the open hunting season for the applicable wild quadruped or game bird.

(c) The person discharges a firearm from a stationary electric-powered all-purpose vehicle as defined in section 1531.01 of the Revised Code or a motor vehicle that is parked on a road that is owned or administered by the division of wildlife, provided that the road is identified by an electric-powered all-purpose vehicle sign.

(d) The person does not discharge the firearm in any of the following manners:

(i) While under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse;

(ii) In the direction of a street, a highway, or other public or private property that is used by the public for vehicular traffic or parking;

(iii) At or into an occupied structure that is a permanent or temporary habitation;

(iv) In the commission of any violation of law, including, but not limited to, a felony that includes, as an essential element, purposely or knowingly causing or attempting to cause the death of or physical harm to another and that was committed by discharging a firearm from a motor vehicle.

(4) Divisions (B) and (C) of this section do not apply to a person if all of the following circumstances apply:

(a) At the time of the alleged violation of either of those divisions, the person is the operator of or a passenger in a motor vehicle.

(b) The motor vehicle is on real property that is located in an unincorporated area of a township and that either is zoned for agriculture or is used for agriculture.

(c) The person owns the real property described in division (D)(4)(b) of this section, is the spouse or a child of another person who owns that real property, is a tenant of another person who owns that real property, or is the spouse or a child of a tenant of another person who owns that real property.

(d) The person, prior to arriving at the real property described in division (D)(4)(b) of this section, did not transport or possess a firearm in the motor vehicle in a manner prohibited by division (B) or (C) of this section while the motor vehicle was being operated on a street, highway, or other public or private property used by the public for vehicular traffic or parking.

(5) Divisions (B) and (C) of this section do not apply to a person who transports or possesses a handgun in a motor vehicle if, at the time of that transportation or possession, ~~all~~ both of the following apply:

(a) The person transporting or possessing the handgun is carrying a valid license or temporary emergency license to carry a concealed handgun issued to the person under section 2923.125 or 2923.1213 of the Revised Code or a license to carry a concealed handgun that was issued by another state with which the attorney general has entered into a reciprocity agreement under section 109.69 of the Revised Code.

(b) The person transporting or possessing the handgun is not knowingly in a place described in division (B) of section 2923.126 of the Revised Code.

~~(c) One of the following applies:~~

~~(i) The handgun is in a holster on the person's person.~~

~~(ii) The handgun is in a closed case, bag, box, or other container that is in plain sight and that has a lid, a cover, or a closing mechanism with a zipper, snap, or buckle, which lid, cover, or closing mechanism must be opened for a person to gain access to the handgun.~~

~~(iii) The handgun is securely encased by being stored in a closed glove compartment or vehicle console or in a case that is locked.~~

(6) Divisions (B) and (C) of this section do not apply to a person if all of the following apply:

(a) The person possesses a valid electric-powered all-purpose vehicle permit issued under section 1533.103 of the Revised Code by the chief of the division of wildlife.

(b) The person is on or in an electric-powered all-purpose vehicle as defined in section 1531.01 of the Revised Code or a motor vehicle during the open hunting season for a wild quadruped or game bird.

(c) The person is on or in an electric-powered all-purpose vehicle as defined in section 1531.01 of the Revised Code or a motor vehicle that is parked on a road that is owned or administered by the division of wildlife, provided that the road is identified by an electric-powered all-purpose vehicle sign.

(G)(1) The affirmative defenses authorized in divisions (D)(1) and (2) of section 2923.12 of the Revised Code are affirmative defenses to a charge under division (B) or (C) of this section that involves a firearm other than a handgun.

(2) It is an affirmative defense to a charge under division (B) or (C) of this section of improperly handling firearms in a motor vehicle that the actor transported or had the firearm in the motor vehicle for any lawful purpose

and while the motor vehicle was on the actor's own property, provided that this affirmative defense is not available unless the person, immediately prior to arriving at the actor's own property, did not transport or possess the firearm in a motor vehicle in a manner prohibited by division (B) or (C) of this section while the motor vehicle was being operated on a street, highway, or other public or private property used by the public for vehicular traffic.

(H)(1) No person who is charged with a violation of division (B), (C), or (D) of this section shall be required to obtain a license or temporary emergency license to carry a concealed handgun under section 2923.125 or 2923.1213 of the Revised Code as a condition for the dismissal of the charge.

(2)(a) If a person is convicted of, was convicted of, pleads guilty to, or has pleaded guilty to a violation of division (E) of this section as it existed prior to the effective date of this amendment and if the conduct that was the basis of the violation no longer would be a violation of division (E) of this section on or after the effective date of this amendment, the person may file an application under section 2953.37 of the Revised Code requesting the expungement of the record of conviction.

If a person is convicted of, was convicted of, pleads guilty to, or has pleaded guilty to a violation of division (B) or (C) of this section as the division existed prior to the effective date of this amendment and if the conduct that was the basis of the violation no longer would be a violation of division (B) or (C) of this section on or after the effective date of this amendment due to the application of division (F)(5) of this section as it exists on and after the effective date of this amendment, the person may file an application under section 2953.37 of the Revised Code requesting the expungement of the record of conviction.

(b) The attorney general shall develop a public media advisory that summarizes the expungement procedure established under section 2953.37 of the Revised Code and the offenders identified in division (H)(2)(a) of this section who are authorized to apply for the expungement. Within thirty days after the effective date of this amendment, the attorney general shall provide a copy of the advisory to each daily newspaper published in this state and each television station that broadcasts in this state. The attorney general may provide the advisory in a tangible form, an electronic form, or in both tangible and electronic forms.

(I) Whoever violates this section is guilty of improperly handling firearms in a motor vehicle. Violation of division (A) of this section is a felony of the fourth degree. Violation of division (C) of this section is a



misdemeanor of the fourth degree. A violation of division (D) of this section is a felony of the fifth degree or, if the loaded handgun is concealed on the person's person, a felony of the fourth degree. Except as otherwise provided in this division, a violation of division (E)~~(3)(1) or (2)~~ of this section is a misdemeanor of the first degree, and, in addition to any other penalty or sanction imposed for the violation, the offender's license or temporary emergency license to carry a concealed handgun shall be suspended pursuant to division (A)(2) of section 2923.128 of the Revised Code. If at the time of the stop of the offender for a traffic stop, for another law enforcement purpose, or for a purpose defined in section 5503.34 of the Revised Code that was the basis of the violation any law enforcement officer involved with the stop or the employee of the motor carrier enforcement unit who made the stop had actual knowledge of the offender's status as a licensee, a violation of division (E)~~(3)(1) or (2)~~ of this section is a minor misdemeanor, and the offender's license or temporary emergency license to carry a concealed handgun shall not be suspended pursuant to division (A)(2) of section 2923.128 of the Revised Code. A violation of division (E)~~(1), (2), or (5)(4)~~ of this section is a felony of the fifth degree. A violation of division (E)~~(4)(3) or (6)(5)~~ of this section is a misdemeanor of the first degree or, if the offender previously has been convicted of or pleaded guilty to a violation of division (E)~~(4)(3) or (6)(5)~~ of this section, a felony of the fifth degree. In addition to any other penalty or sanction imposed for a misdemeanor violation of division (E)~~(4)(3) or (6)(5)~~ of this section, the offender's license or temporary emergency license to carry a concealed handgun shall be suspended pursuant to division (A)(2) of section 2923.128 of the Revised Code. A violation of division (B) of this section is ~~whichever of the following is applicable:~~

~~(1) If, at the time of the transportation or possession in violation of division (B) of this section, the offender was carrying a valid license or temporary emergency license to carry a concealed handgun issued to the offender under section 2923.125 or 2923.1213 of the Revised Code or a license to carry a concealed handgun that was issued by another state with which the attorney general has entered into a reciprocity agreement under section 109.69 of the Revised Code and the offender was not knowingly in a place described in division (B) of section 2923.126 of the Revised Code, the violation is a misdemeanor of the first degree or, if the offender previously has been convicted of or pleaded guilty to a violation of division (B) of this section, a felony of the fourth degree.~~

~~(2) If division (1) of this section does not apply, a felony of the fourth degree.~~

(J) If a law enforcement officer stops a motor vehicle for a traffic stop or any other purpose, if any person in the motor vehicle surrenders a firearm to the officer, either voluntarily or pursuant to a request or demand of the officer, and if the officer does not charge the person with a violation of this section or arrest the person for any offense, the person is not otherwise prohibited by law from possessing the firearm, and the firearm is not contraband, the officer shall return the firearm to the person at the termination of the stop. If a court orders a law enforcement officer to return a firearm to a person pursuant to the requirement set forth in this division, division (B) of section 2923.163 of the Revised Code applies.

(K) As used in this section:

(1) "Motor vehicle," "street," and "highway" have the same meanings as in section 4511.01 of the Revised Code.

(2) "Occupied structure" has the same meaning as in section 2909.01 of the Revised Code.

(3) "Agriculture" has the same meaning as in section 519.01 of the Revised Code.

(4) "Tenant" has the same meaning as in section 1531.01 of the Revised Code.

(5) "Unloaded" means any of the following:

(a) No ammunition is in the firearm in question, and no ammunition is loaded into a magazine or speed loader that may be used with the firearm in question and that is located anywhere within the vehicle in question, without regard to where ammunition otherwise is located within the vehicle in question. For the purposes of division (K)(5)(a) of this section, ammunition held in stripper-clips or in en-bloc clips is not considered ammunition that is loaded into a magazine or speed loader.

(b) With respect to a firearm employing a percussion cap, flintlock, or other obsolete ignition system, when the weapon is uncapped or when the priming charge is removed from the pan.

(6) "Commercial motor vehicle" has the same meaning as in division (A) of section 4506.25 of the Revised Code.

(7) "Motor carrier enforcement unit" means the motor carrier enforcement unit in the department of public safety, division of state highway patrol, that is created by section 5503.34 of the Revised Code.

Sec. 2953.321. (A) As used in this section, "investigatory work product" means any records or reports of a law enforcement officer or agency that are excepted from the definition of "official records" contained in section 2953.51 of the Revised Code and that pertain to a case the records of which have been ordered sealed pursuant to division (C)(2) of section 2953.32 of

the Revised Code or have been ordered expunged pursuant to division (D)(2) of section 2953.37 of the Revised Code.

(B) Upon the issuance of an order by a court pursuant to division (C)(2) of section 2953.32 of the Revised Code directing that all official records pertaining to a case be sealed or an order by a court pursuant to division (D)(2) of section 2953.37 of the Revised Code directing that all official records pertaining to a case be expunged:

(1) Every law enforcement officer who possesses investigatory work product immediately shall deliver that work product to the law enforcement officer's employing law enforcement agency.

(2) Except as provided in division (B)(3) of this section, every law enforcement agency that possesses investigatory work product shall close that work product to all persons who are not directly employed by the law enforcement agency and shall treat that work product, in relation to all persons other than those who are directly employed by the law enforcement agency, as if it did not exist and never had existed.

(3) A law enforcement agency that possesses investigatory work product may permit another law enforcement agency to use that work product in the investigation of another offense if the facts incident to the offense being investigated by the other law enforcement agency and the facts incident to an offense that is the subject of the case are reasonably similar. The agency that permits the use of investigatory work product may provide the other agency with the name of the person who is the subject of the case if it believes that the name of the person is necessary to the conduct of the investigation by the other agency.

(C)(1) Except as provided in division (B)(3) of this section, no law enforcement officer or other person employed by a law enforcement agency shall knowingly release, disseminate, or otherwise make the investigatory work product or any information contained in that work product available to, or discuss any information contained in it with, any person not employed by the employing law enforcement agency.

(2) No law enforcement agency, or person employed by a law enforcement agency, that receives investigatory work product pursuant to division (B)(3) of this section shall use that work product for any purpose other than the investigation of the offense for which it was obtained from the other law enforcement agency, or disclose the name of the person who is the subject of the work product except when necessary for the conduct of the investigation of the offense, or the prosecution of the person for committing the offense, for which it was obtained from the other law enforcement agency.

(3) It is not a violation of division (C)(1) or (2) of this section for the bureau of criminal identification and investigation or any authorized employee of the bureau participating in the investigation of criminal activity to release, disseminate, or otherwise make available to, or discuss with, a person directly employed by a law enforcement agency DNA records collected in the DNA database or fingerprints filed for record by the superintendent of the bureau of criminal identification and investigation.

(D) Whoever violates division (C)(1) or (2) of this section is guilty of divulging confidential investigatory work product, a misdemeanor of the fourth degree.

Sec. 2953.33. (A) ~~Except~~ An order issued under section 2953.37 of the Revised Code to expunge the record of a person's conviction or, except as provided in division (G) of section 2953.32 of the Revised Code, an order issued under that section to seal the record of a person's conviction restores the person who is the subject of the order to all rights and privileges not otherwise restored by termination of the sentence or community control sanction or by final release on parole or post-release control.

(B)(1) In any application for employment, license, or other right or privilege, any appearance as a witness, or any other inquiry, except as provided in division (E) of section 2953.32 and in section 3319.292 of the Revised Code and subject to division (B)(2) of this section, a person may be questioned only with respect to convictions not sealed, bail forfeitures not expunged under section 2953.42 of the Revised Code as it existed prior to June 29, 1988, and bail forfeitures not sealed, unless the question bears a direct and substantial relationship to the position for which the person is being considered.

(2) A person may not be questioned in any application, appearance, or inquiry of a type described in division (B)(1) of this section with respect to any conviction expunged under section 2953.37 of the Revised Code.

Sec. 2953.35. (A) Except as authorized by divisions (D), (E), and (F) of section 2953.32 of the Revised Code or by Chapter 2950. of the Revised Code, any officer or employee of the state, or a political subdivision of the state, who releases or otherwise disseminates or makes available for any purpose involving employment, bonding, or licensing in connection with any business, trade, or profession to any person, or to any department, agency, or other instrumentality of the state, or any political subdivision of the state, any information or other data concerning any arrest, complaint, indictment, trial, hearing, adjudication, conviction, or correctional supervision the records with respect to which the officer or employee had knowledge of were sealed by an existing order issued pursuant to sections

2953.31 to 2953.36 of the Revised Code, were expunged by an order issued pursuant to section 2953.37 of the Revised Code, or were expunged by an order issued pursuant to section 2953.42 of the Revised Code as it existed prior to June 29, 1988, is guilty of divulging confidential information, a misdemeanor of the fourth degree.

(B) Any person who, in violation of section 2953.32 of the Revised Code, uses, disseminates, or otherwise makes available any index prepared pursuant to division (F) of section 2953.32 of the Revised Code is guilty of a misdemeanor of the fourth degree.

(C) It is not a violation of this section for the bureau of criminal identification and investigation or any authorized employee of the bureau participating in the investigation of criminal activity to release, disseminate, or otherwise make available to, or discuss with, a person directly employed by a law enforcement agency DNA records collected in the DNA database or fingerprints filed for record by the superintendent of the bureau of criminal identification and investigation.

Sec. 2953.37. (A) As used in this section:

(1) "Expunge" means to destroy, delete, and erase a record as appropriate for the record's physical or electronic form or characteristic so that the record is permanently irretrievable.

(2) "Official records" has the same meaning as in section 2953.51 of the Revised Code.

(3) "Prosecutor" has the same meaning as in section 2953.31 of the Revised Code.

(4) "Record of conviction" means the record related to a conviction of or plea of guilty to an offense.

(B) Any person who is convicted of, was convicted of, pleads guilty to, or has pleaded guilty to a violation of division (B), (C), or (E) of section 2923.16 of the Revised Code as the division existed prior to the effective date of this section and who is authorized by division (H)(2)(a) of that section to file an application under this section for the expungement of the conviction record may apply to the sentencing court for the expungement of the record of conviction. The person may file the application at any time on or after the effective date of this section. The application shall do all of the following:

(1) Identify the applicant, the offense for which the expungement is sought, the date of the conviction of or plea of guilty to that offense, and the court in which the conviction occurred or the plea of guilty was entered;

(2) Include evidence that the offense was a violation of division (B), (C), or (E) of section 2923.16 of the Revised Code as the division existed

prior to the effective date of this section and that the applicant is authorized by division (H)(2)(a) of that section to file an application under this section;

(3) Include a request for expungement of the record of conviction of that offense under this section.

(C) Upon the filing of an application under division (B) of this section and the payment of the fee described in division (D)(3) of this section if applicable, the court shall set a date for a hearing and shall notify the prosecutor for the case of the hearing on the application. The prosecutor may object to the granting of the application by filing an objection with the court prior to the date set for the hearing. The prosecutor shall specify in the objection the reasons for believing a denial of the application is justified. The court shall direct its regular probation officer, a state probation officer, or the department of probation of the county in which the applicant resides to make inquiries and written reports as the court requires concerning the applicant. The court shall hold the hearing scheduled under this division.

(D)(1) At the hearing held under division (C) of this section, the court shall do each of the following:

(a) Determine whether the applicant has been convicted of or pleaded guilty to a violation of division (E) of section 2923.16 of the Revised Code as the division existed prior to the effective date of this section and whether the conduct that was the basis of the violation no longer would be a violation of that division on or after the effective date of this section;

(b) Determine whether the applicant has been convicted of or pleaded guilty to a violation of division (B) or (C) of section 2923.16 of the Revised Code as the division existed prior to the effective date of this section and whether the conduct that was the basis of the violation no longer would be a violation of that division on or after the effective date of this section due to the application of division (F)(5) of that section as it exists on and after the effective date of this section;

(c) If the prosecutor has filed an objection in accordance with division (C) of this section, consider the reasons against granting the application specified by the prosecutor in the objection;

(d) Weigh the interests of the applicant in having the records pertaining to the applicant's conviction or guilty plea expunged against the legitimate needs, if any, of the government to maintain those records.

(2)(a) The court may order the expungement of all official records pertaining to the case and the deletion of all index references to the case and, if it does order the expungement, shall send notice of the order to each public office or agency that the court has reason to believe may have an official record pertaining to the case if the court, after complying with

division (D)(1) of this section, determines both of the following:

(i) That the applicant has been convicted of or pleaded guilty to a violation of division (E) of section 2923.16 of the Revised Code as it existed prior to the effective date of this section and the conduct that was the basis of the violation no longer would be a violation of that division on or after the effective date of this section, or that the applicant has been convicted of or pleaded guilty to a violation of division (B) or (C) of section 2923.16 of the Revised Code as the division existed prior to the effective date of this section and the conduct that was the basis of the violation no longer would be a violation of that division on or after the effective date of this section due to the application of division (F)(5) of that section as it exists on and after the effective date of this section;

(ii) That the interests of the applicant in having the records pertaining to the applicant's conviction or guilty plea expunged are not outweighed by any legitimate needs of the government to maintain those records.

(b) The proceedings in the case that is the subject of an order issued under division (D)(2)(a) of this section shall be considered not to have occurred and the conviction or guilty plea of the person who is the subject of the proceedings shall be expunged. The record of the conviction shall not be used for any purpose, including, but not limited to, a criminal records check under section 109.572 of the Revised Code or a determination under section 2923.125 or 2923.1212 of the Revised Code of eligibility for a license or temporary emergency license to carry a concealed handgun. The applicant may, and the court shall, reply that no record exists with respect to the applicant upon any inquiry into the matter.

(3) Upon the filing of an application under this section, the applicant, unless indigent, shall pay a fee of fifty dollars. The court shall pay thirty dollars of the fee into the state treasury and shall pay twenty dollars of the fee into the county general revenue fund.

SECTION 2. That existing sections 2923.121, 2923.125, 2923.128, 2923.16, 2953.321, 2953.33, and 2953.35 of the Revised Code are hereby repealed.

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*Speaker* \_\_\_\_\_ *of the House of Representatives.*

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*President* \_\_\_\_\_ *of the Senate.*

Passed \_\_\_\_\_, 20\_\_\_\_

Approved \_\_\_\_\_, 20\_\_\_\_

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*Governor.*



Sub. S. B. No. 17

129th G.A.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

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*Director, Legislative Service Commission.*

Filed in the office of the Secretary of State at Columbus, Ohio, on the  
\_\_\_\_ day of \_\_\_\_\_, A. D. 20\_\_\_\_.

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*Secretary of State.*

File No. \_\_\_\_\_ Effective Date \_\_\_\_\_