

WITNESS INFORMATION FORM

Please complete the Witness Information Form before testifying:

Date: 02/25/2020

Name: Lon Etchison

Are you representing: Yourself Organization

Organization (If Applicable): _____

Position/Title: _____

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Do you wish to be added to the committee notice email distribution list? Yes No

Business before the committee

Legislation (Bill/Resolution Number): HB 425

Specific Issue: Repeal of notification requirement

Are you testifying as a: Proponent Opponent Interested Party

Will you have a written statement, visual aids, or other material to distribute? Yes No

(If yes, please send an electronic version of the documents, if possible, to the Chair's office prior to committee. You may also submit hard copies to the Chair's staff prior to committee.)

How much time will your testimony require? 5 minutes

Please provide a brief statement on your position:

The requirement that a legally armed citizen notify law enforcement when they are stopped does not enhance officer safety. In addition, the way the law is written leaves the legally armed citizen in a position where they can be arbitrarily charged for violating this law since there are no clearly defined guidelines in the law.

Please be advised that this form and any materials (written or otherwise) submitted or presented to this committee are records that may be requested by the public and may be published online.

The Federalism Committee
The Honorable John Becker, Chair
The Honorable Reggie Stoltzfus, Vice Chair
The Honorable Adam C. Miller, Ranking Member

HB 425 - Modify duty-notify police if carrying gun when stopped

Chair Mr. Becker, Vice-Chair Mr. Stoltzfus, Ranking Member Mr. Miller and members of the Committee, thank you for allowing me to testify in support of HB 425.

I am a proponent of this bill who has a somewhat unique perspective, I believe.

I am not a member of the NRA. Nor am I a member of the Buckeye Firearms Association. I am a member of the FOP and have been for the last 25 years. I am currently a full time police sergeant and have been a full time law enforcement officer in Greene County for 25 years. I am a police trainer and an OPOTC certified Basic Police Academy instructor that teaches a variety of topics including firearms and legal topics. I also teach CCW classes.

And I support this bill.

There are several reasons why I support this bill. First, although the notification requirement has long been touted as an officer safety issue - I disagree. It is a feel good measure added to this law unnecessarily, by well-intentioned police advocates, Command Staff and FOP representatives. One of the first things I was taught as a rookie was to assume everyone you deal with has a gun on them. And it's one of the first things I have taught my trainees over the years. If it was such a justified officer safety concern then we would see this notification requirement all across the country. That is not the case. And I am not alone in believing this way. I know many Officers and Deputies who are also members of the FOP who feel as I do.

But my real concern about this notification law is with how this law was written and how it could be enforced arbitrarily. For example, let's look at the wording of the statute. The statute says that a licensee must make that notification "promptly". In the real world of police and citizen interaction what does "promptly" mean? During the first 5 seconds? 10 seconds? 30 seconds? As with any statute passed by the legislature and signed into law, it is up to the courts or a jury to interpret that statute if it is ambiguous or unclear. In the more than 15 years since this statute was passed it STILL hasn't really been addressed by the Courts statewide. As far as I can tell the only Court who has addressed this issue is the 11th District Court of Appeals. According to the 11th District, "promptly" is not ambiguous. They said - "To do something 'promptly' is to do it without delay and with reasonable speed." But even then they went on to clarify and say "Certainly, the notification should occur during the initial encounter with the officer." The initial encounter with the officer could last 10 seconds or it could last 2 minutes. Does that mean notifying anywhere in 2 minutes is doing it "promptly"? Without a standard that applies across the state, how are citizens and the police to know what is and is not required?

With the 11th Districts decision in mind, imagine that you are the legally armed citizen who has been pulled over for speeding. You're running late and you are on your way to take your small children to school. You're nervous. Most people are when they're stopped by the cops. And now your children start crying because they're scared. And while you are trying to calm them down so that you will be able to hear the officer when he gets to your window you get sidetracked and forget that you have a loaded pistol in the center console. After giving your license to the officer and after he walks back to his car to write the ticket/warning you suddenly realize that you forgot to notify him about your pistol in the center console. What do you do? When he runs your license he will see that you have a Concealed Handgun License. If you do notify when he gets back you just incriminated yourself and have opened yourself up to criminal charges. Do you keep your mouth shut and hope that he doesn't ask about a firearm? In this case, neither option is a good one.

Another area of the notification law that I believe is ambiguous is the phrase "stopped for a law enforcement purpose". What exactly does that mean? I can tell you from conversations I have had with many different officers and cadets that "stopped for a law enforcement purpose" means different things to different officers. Some believe that it means any "official" encounter between the police and a legally armed citizen. Such as when you have to make a hit skip report because someone backed into your unoccupied car at Kroger. Other officers believe that it only applies when the legally armed citizen is not free to end the encounter with the officer of their own free will. In other words - that person has been "detained".

I do not know of a Court case that specifically addresses this. So do we leave the decision on what constitutes "stopped for a law enforcement purpose" up to the individual officer? Nowhere is that phrase defined in the booklet that is required reading for those who wish to obtain their CHL. So once again we have a term/phrase with no definitive answer that is critical to knowing whether or not a violation of the statute has occurred.

About 2 years ago I finally had an opportunity to teach the "2-20 Other Offenses" block in a Basic Police Academy. This is the legal block that covers certain alcohol, firearm and prostitution related offenses. To say I was shocked with how little time was spent covering this portion of the law is an understatement. Nowhere in the lesson plan is the term "promptly" discussed in detail. Nowhere in the lesson plan is the phrase "stopped for a law enforcement purpose" discussed in detail. So now you have individual instructors teaching an important topic without a standard frame of reference to teach by. How are they answering questions about these terms during academy classes?

Overall, we (law enforcement) have done a horrible job in training our officers about the CCW statutes. Notification is just one example. One portion of this law that is clearly defined is the fact that notification is only required when the legally armed citizen is actually carrying their firearm with them. And yet we still have Officers who do not understand that portion of the law.

Notification is an unnecessary requirement for the legally armed citizen and, as written, is a statute that is easily misapplied by law enforcement and should be repealed.

These opinions are my own and are not those of my employer or the State of Ohio.

Respectfully submitted,

Lon Etchison
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