

WITNESS INFORMATION FORM

Please complete the Witness Information Form before testifying:

Date: October 26, 2021

Name: Douglas Rogers

Are you representing: Yourself Organization

Organization (If Applicable): NA

Position/Title: Mr.

Address: 2530 Bryden Rd.

City: Columbus State: Ohio Zip: 43209

Best Contact Telephone: 614-3954-4686 Email: douglasrogers@gmail.com

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

Business before the committee

Legislation (Bill/Resolution Number): HB227

Specific Issue: permitless carry

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? 3-5 minutes.

Please provide a brief statement on your position: HB227 is anti-police and anti-public safety and will make the job of law enforcement officers more dangerous, and research has shown that permitless carry will increae gun violence

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.

**BACKGROUND CHECKS, CONCEALED HANDGUNS AND THE OHIO LOOPHOLE
FOR ON-LINE MARKETERS OF FIREARMS TO PERSONS WHO COULD NOT PASS
A FEDERAL FIREARMS BACKGROUND CHECK**

10/26/21

Chair Wilkin, Vice Chair White and Ranking Member Hicks-Hudson, thank you for this opportunity to testify against HB227 pursuant to the attached Notice.

On October 14, the NRA's lobbyist from the Institute for Legislative Action in Virginia made at least two misleading statements about the sale and carrying of firearms in Ohio. First, he said SubHB227 does not change who can carry (c.2:21 of 10/14/21 Ohio Channel Live stream). Second, he said there is no difference when someone purchases a gun online than when he purchases from a licensed dealer in Ohio – arguing that both sales go through background checks (also 10/14/21 Ohio Channel Live stream). <https://ohiohouse.gov/committees/governmentoversight/video/ohio-house-government-oversight-committee-10-14-2021-181815>

In the famous Humphrey Bogart/Ingrid Bergman movie *Casablanca*, Claude Rains announced with feigned outrage, “This café is closed until further notice.... I’m shocked, shocked to find out that gambling is going on in here.” https://www.youtube.com/watch?v=SjbPi00k_ME The NRA representative would be similarly “shocked” to learn that:

- (a) HB227 would allow people who have been denied concealed carry licenses under current law to carry the firearms concealed under HB227; and
- (b) Ohioans purchase hundreds of thousands of firearms without background checks through on-line hawkers (such as Armslist.com) of firearms.

I. OHIO CONCEALED HANDGUN LAW

A. Enforcement of Current Concealed Handgun Law in Ohio

Attorney General Yost enforces Ohio's concealed handgun licensing law and concluded this year, “By any measure, Ohio's concealed-carry licensing system has succeeded in combining safeguards that protect the public and provisions that uphold Americans' right to bear arms and protect themselves.” [https://www.ohioattorneygeneral.gov/Files/Reports/Concealed-Carry-AnnualReports-\(PDF\)/2020-CCW-Annual-Report](https://www.ohioattorneygeneral.gov/Files/Reports/Concealed-Carry-AnnualReports-(PDF)/2020-CCW-Annual-Report) . Attorney General Yost reported that: 96,892 new CHLs were issued (*Id.* at p. 1); 72,340 licenses were renewed (*Id.* at p. 2); 1,618 licenses were suspended (*Id.* at p. 3); 429 licenses were revoked (*Id.* at p. 4); and 1,777 applications were denied (*Id.* at p. 5). The Attorney General noted the “law requires that sheriffs deny an application to any person who fails to meet the eligibility criteria specified in ORC 2923.125 or ORC 2923.1213,” (*Id.* at p. 5).

A CHL application must be denied for failing to meet the qualifications of R.C. § 2923.125, even if state and federal law (RC. §2923.13 and 18 U.S.C. 922(g)) do not prevent such individuals from

openly carrying the firearm the person intends to carry. Among other things, in order to obtain a concealed carry license, the applicant must provide a certificate of completion of a firearms safety or equivalent training under R.C. §2923.125(B)(1) and pass a criminal records check under R.C. §2923.125(C).

The reason for the distinction between concealed carry and open carry – both historically and currently - is that carrying a concealed firearm allows the carrier to sneak up on unsuspecting citizens. See: eg, Buckeye Firearms Association, *How to spot a concealed handgun* (“you hope to have the element of surprise.... You can also use this information to avoid providing others with the same visual clues which may alert them that you are carrying concealed”), <https://www.buckeyefirearms.org/how-spot-concealed-handgun> ; and *State ex rel. J.M.*, 144 So. 3d 853, 865, 2013-1717 (La. 01/28/14), “[t]his law [a concealed weapons prohibition] became absolutely necessary to counteract a vicious state of society, growing out of the habit of carrying concealed weapons, and to prevent bloodshed and assassinations committed upon unsuspecting persons,” citing *State v. Chandler*, 5 La. Ann. 489, 489-490 (1850).

B. HB227 would expand who can legally carry concealed firearms in Ohio without any training in the use of firearms and without passing a background check

As I said in my October 14 testimony, “HB227 would ...permit Ohioans to carry concealed weapons throughout Ohio without any training in the use of firearms or any background check.” Currently, when anyone in Ohio applies for a concealed handgun license under R.C. §2923.125(C), the “sheriff...shall conduct ... the criminal records [background] check and the incompetency records check described in section 311.41 of the Revised Code.” Someone who does not qualify for a CHL under R.C. §2923.125 may not be granted a concealed handgun license.

Proposed R.C. §2923.111(A), however, eliminates the requirement to obtain a concealed handgun/weapons license in order to legally carry a concealed firearm. Specifically, lines 1008 1016 provide: “(A) Notwithstanding any other Revised Code section to the contrary, ... a person who is twenty-one years of age or older and is not legally prohibited from possessing or receiving a firearm under any law of this state [R.C. §2923.13] or the United States [18 U.S.C. §922(g)] shall not be required to obtain a concealed weapons license” Division (A) further provides at lines 1025 - 1032, “The person’s right to carry a concealed weapon that is not a restricted weapon [under proposed R.C. §2923.13 or 18 U.S.C. 922(g)] granted under this division is the same right as is granted to a person who has been issued a concealed weapons license under section 2923.125...”

Neither 18 U.S.C. §922(g) nor R.C. §2923.13 prohibits a person convicted of misdemeanor assault on a police officer from possessing or openly carrying a firearm. As a result, under HB227, anyone who does not fall into one of the prohibitions identified in 18 U.S.C. §922(g) or R.C. §2923.13 - such as **misdemeanor assault conviction on a police officer - would be allowed to legally carry a concealed firearm up to any individual in public, including a police officer**, even though that person could not be granted a concealed handgun license under R.C. §2923.125. The Ohio Association of Chiefs of Police, the Fraternal Order of Police of Ohio and the Ohio Legislative Service Commission, agreed with this conclusion. See, <https://www.legislature.ohio.gov/legislation/legislation-committee-documents?id=GA133-HB178>; <https://www.legislature.ohio.gov/legislation/legislation-committee->

documents?id=GA133HB-178; and
<https://www.legislature.ohio.gov/download?key=16289&format=pdf> .

If the extreme gun lobby claims that someone convicted of misdemeanor assault on a police officer or other event/condition disqualifying an individual from carrying a concealed weapon in current R.C. §2923.125 could not legally carry a concealed weapon under Sub.H.B.227, the extreme gun lobby should support an amendment to Sub.HB227 providing at the end of 2923.111 (A), “Notwithstanding the foregoing, anyone who is not eligible for a concealed weapons license under 2923.125 (D) cannot legally carry that weapon concealed in Ohio” immediately after line 1032 in Sub.H.B.227. The gun lobbyists will not support such amendment, however, because **the point of Sub.H.B.227 for the extreme gun lobbyists is to make Ohio a permitless carry state regardless of its anti-police and anti-public safety provisions.**

II. DANGEROUS PIPELINE OF FIREARMS PURCHASED IN OHIO WITHOUT BACKGROUND CHECKS

Isaiah said, “Be ever hearing, but never understanding; be ever seeing but never perceiving.” *Isaiah* 6:9. If the NRA lobbyist really believed his statement that the online sales arranged by Armslist went through background checks, he is neither hearing nor understanding.

A. Federal law on firearm sales and background checks leave a huge loophole that Ohio, unlike many other states, has not filled

Federal law generally limits interstate sales to “licensed dealers”. For instance, 18 U.S.C. §922(a) provides that “It shall be unlawful... “(3) for any person other than a ... licensed dealer ... to transport into or receive in the State where he resides (or ... the State where it maintains a place of business) any firearm purchased or otherwise obtained by such person outside that State...”. 18 U.S.C. §921(a)(11) provides, “The term ‘dealer’ means (A) any person engaged in the business of selling firearms at wholesale or retail,” but “engaged in the business” does “not include a person who makes occasional sales, exchanges, or purchases of firearms for the enhancement of a personal collection or for a hobby, or who sells all or part of his personal collection of firearms.” 18 U.S.C. §921 (a)(21)(C).

Federal law generally requires licensed dealers (but not private sellers) to initiate a background check on the purchaser prior to sale of a firearm. Specifically, 18 U.S.C. §922(t)(1) provides, “a ... licensed dealer shall not transfer a firearm to any other person who is not licensed under this chapter [18 USCS §§ 921 et seq.], unless—(A) before the completion of the transfer, the licensee contacts the national instant criminal background check system established under section 103 of that Act...”

Federal law does not prohibit private individuals from selling to other private individuals within the same state. On-line hucksters such as Armslist.com, have found Ohio to be an easy target to sell firearms to individuals without having to go through a background check, especially when the buyer and seller coordinated by Armslist or the other on-line marketer are from the same state. Ohio has not adopted any state law for background checks for unlicensed individuals selling

firearms to absolute strangers - in contrast to the many states¹ that have instituted state restrictions on the private sale of firearms.²

B. The extent of purchases in Ohio through on-line marketers in Ohio without background checks

Armslist has been described as “The Craigslist of Guns,” by Colin Lecher and Grayson Blackmon, Jan. 16, 2020, @ <https://www.theverge.com/2020/1/16/21067793/guns-onlinearmslist-marketplace-craigslist-sales-buy-crime-investigation>. The article said: “... there are places like Armslist that function as an online classified section tailored to guns, and all transactions are done peer to peer....Someone looking to offload a gun can put up a listing on Armslist in minutes and then simply wait for prospective buyers to reach out. With a few clicks, sellers can say where they’re selling their gun, the make and build, how much it costs, and include an email address for queries.... In a paper published in 2019, researchers with the University of Minnesota scraped more than 4.9 million Armslist listings from the website and found that less than 10 percent mentioned a background check.”

The New York Times similarly reported on the activities of Armslist in 2013 about Radcliffe Houghton, who at the time was subject to a restraining order that barred him from possessing guns. The New York Times reported that “Mr. Houghton simply contacted a private seller on Armslist and handed over \$500 in a McDonald’s parking lot for a .40-caliber semi-automatic pistol and three magazines.” Michael Luo, Mike McIntire and Griff Palmer, *Seeking Gun or Selling One, Web Is a Land of Few Rules*, New York Times, April 17, 2013 @ <https://www.nytimes.com/2013/04/17/us/seeking-gun-or-selling-one-web-is-a-land-of-fewrules.html>. The article continued: “With no requirements for background checks on most private transactions, a Times examination found, Armslist and similar sites function as unregulated bazaars, where the essential anonymity of the Internet allows unlicensed sellers to advertise scores of weapons and people legally barred from gun ownership to buy them” (Emphasis added). Mr. Houghton then shot and killed his wife and two other women. *Id.*

Since Ohio has taken no action to regulate the sale of firearms between private individuals, the harm to Ohio from on-line marketers is particularly egregious. For instance, Everytown for Gun Safety, based on extensive research by many experts, has concluded: “Each year, more than 130,000 ads offering firearms for sale are listed on Armslist in Ohio where no background check is legally required. In fact, Ohio has the highest number of ads that did not require a background check across the country.” See Everytown for Gun Safety, *Background Checks and Ohio*, <https://www.everytown.org/report/background-checks-and-ohio-2/>, p. 2, citing Everytown for Gun Safety Support Fund, *Unchecked: An Investigation of the Online Firearm Marketplace*, February 2021, <https://bit.ly/3ufNKio>.

Everytown added, “The average number of posts on Armslist between March and September 2020 by people looking to purchase a firearm in states that do not require background checks on all sales doubled over the same period in 2019.” See Everytown for Gun Safety, *Background Checks and Ohio*, <https://www.everytown.org/report/background-checks-and-ohio-2/>, p. 2 (Emphasis added), citing Everytown for Gun Safety Support Fund. *Undeniable: How Long-Standing Loopholes in the Background Check System Have Been Exacerbated by COVID-19*. December

2020. <https://bit.ly/2M7E9ZJ> .

Everytown continued, “Every year, more than 1,500 Ohioans are killed with guns and over 3,500 more are shot and injured.” See Everytown for Gun Safety, *Background Checks and Ohio*, <https://www.everytown.org/report/background-checks-and-ohio-2/> , p. 3 (Emphasis added), [citing Centers for Disease Control and Prevention. National Center for Injury Prevention and Control, Web-based Injury Statistics Query and Reporting System (WISQARS) Fatal Injury Reports. A yearly average was developed using five years of most recent available data: 2015 to 2019; Ted R. Miller and David Swedler, analysis of HCUP nonfatal injury: 2017]. Moreover, “Gun violence costs Ohio \$11 billion each year, of which \$487 million is paid by taxpayers.” See Everytown for Gun Safety, *Background Checks and Ohio*, <https://www.everytown.org/report/background-checks-and-ohio-2/> , p. 3 (Emphasis added), citing Ted R. Miller, analysis of CDC fatal injury: 2018 and HCUP nonfatal injury: 2017.

III. Conclusion

In addition to gambling by allowing more individuals to legally carry concealed weapons (IIB above), proponents are gambling with the lives of police, children and grandchildren in proposing a standard – no training to carry a concealed firearm – that no one has said is appropriate. Proponents effectively say instead, let’s hope firearm owners will get the training and not be prohibited from possessing firearms. However, if the General Assembly reduces the standard for training to ZERO training, people who don’t get the training will not be able to be punished for failing to get the training. Ohio is in a race to the bottom.

Proponents are also gambling with another anti-police provision in Sub.H.B.227 - limiting the ability of police to temporarily stop and question suspicious individuals carrying firearms in proposed R.C. §2923.111(C). That limits law enforcement even though the U.S. Supreme Court ruled in *Terry v. Ohio*, 392 U.S. 1 (1968), that such stopping and questioning was appropriate. See <https://www.legislature.ohio.gov/legislation/legislation-committee-documents?id=GA133-HB178>.

The proponents are also gambling with the elimination of the required CHL license. Law enforcement has pointed out that the elimination will make it impossible for police to determine if someone carrying a concealed weapon is obeying the law.

<https://www.legislature.ohio.gov/legislation/legislation-committee-documents?id=GA133-HB178>.

SubHB227 is a dangerous gamble to appease the extreme gun lobby that the General Assembly should not take. As Hamilton County Sheriff Charmaine McGuffey said in her testimony against SubHB227, “Allowing virtually anyone in Ohio to conceal weapons on their person without training or background checks will make Ohio less safe.” Sheriff McGuffey added, “More than that, it will make the job of law enforcement even more stressful.”

Douglas Rogers
Bexley, Ohio

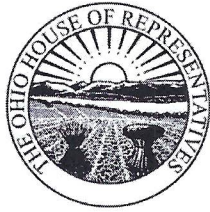
¹ See Giffords Law Center to Prevent Gun Violence @ https://giffords.org/lawcenter/gunlaws/policy-areas/background-checks/universal-background-checks/#footnote_21_4119 , notes 26 – 41. 16 states/District of Columbia) require a background check at the point of sale on handgun sales: California (Cal. Penal Code §§ 27545, 27850-28070); Colorado (Colo. Rev. Stat. § 18-12-112; 2013 Colo. H.B. 1229. *See also* Colo. Rev. Stat. §§ 12-26.1-101 – 12-26.1-108); Connecticut (Conn. Gen. Stat. §§ 29-33(c), 29-361(f), 29-37a(e)-(j). 2013 Ct. ALS 3. *See also* Conn. Gen. Stat. § 29-37g (pre-existing law requiring a background check before a firearm is sold at a gun show)); Delaware (Del. Code tit. 11, § 1448B, tit. 24, § 904A); District of Columbia (D.C. Code Ann. § 7-2505.02); Maryland (Md. Code Ann., Pub. Safety §§ 5-101(t), 5-124 (handguns and assault weapons only); *id.* § 5-204.1 (rifles and shotguns other than assault weapons). Assault weapons are now generally banned in Maryland); Nevada (Nev. Rev. Stat. Ann. § 202.254); New Jersey (N.J. Stat. Ann. § 2C:58-3); New Mexico (Applies to firearm sales, but not transfers made without consideration)(2019 NM S 8, enacting N.M. Stat. Ann. § 30-7-7.1); New York N.Y. Gen. Bus. Law § 898. 2013 NY ALS 1. *See also* N.Y. Gen. Bus. Law §§ 895-897; N.Y. Penal Law § 400.00 (pre-existing law requiring a background check before sale of a firearm at a gun show); Oregon (Or. Rev. Stat. § 166.435. At gun shows, Oregon law allows a transferor who is not a licensed dealer to contact the Department of State Police directly to conduct the background check. Or. Rev. Stat. § 166.436); Pennsylvania (handguns only)(18 Pa. Cons. Stat. § 6111(b), (c), (f)(2)); Rhode Island (R.I. Gen. Laws §§ 11-47-35 – 11-47-35.2); Vermont (Vt. Stat. Ann. tit. 13, § 4019, enacted by 2017 SB 55, Sec. 6); Virginia (Va. Code Ann. §§ 18.2-308.2:2; 18.2-308.2:5); and Washington (Rev. Code Wash. § 9.41.113. In 2014, Washington became the first state to enact a law requiring background checks on private sales by voter initiative. See Initiative Measure No. 594, available at http://sos.wa.gov/_assets/elections/initiatives/FinalText_483.pdf).

² See Giffords Law Center to Prevent Gun Violence @ https://giffords.org/lawcenter/gunlaws/policy-areas/background-checks/universal-background-checks/#footnote_21_4119 , notes 43 – 54. 12 states (some overlap with the above 16) require a background check to purchase from private sellers through a permit requirement: Connecticut (also requires a point of sale background check)(Conn. Gen. Stat. §§ 29-33, 29-36f – 29-36i, 29-37a, 29-38g – 29-38j); District of Columbia (also requires a point of sale background check)(D. C. Code Ann. §§ 72502.01 – 7-2502.10; D.C. Mun. Regs. tit. 24, D.C. Mun. Regs. tit. 24, §§ 2311 – 2320); Hawaii(Haw. Rev. Stat. Ann. §§ 134-2, 134-13); Illinois (430 Ill. Comp. Stat. 65/1 – 65/15a, 720 Ill. Comp. Stat. 5/24-3(k). Since 2014, Illinois has required a seller to contact law enforcement and verify the validity of the purchaser’s permit (called a FOID Card) at the time of the sale); Maryland (handguns only; also requires a point of sale background check)(Md. Code Ann. Pub. Safety § 5-117.1); Massachusetts (Mass. Gen. Laws ch. 140, §§ 121, 129B, 129C, 131,

131A, 131E, 131P); Michigan (handguns only)(Mich. Comp. Laws §§ 28.422, 28.422a); Nebraska (handguns only)(Neb. Rev. Stat. Ann. §§ 69-2404, 69-2407, 69-2409); New Jersey (also requires a point of sale background check)(N.J. Stat. Ann. § 2C:58-3); New

York (handguns only. Also requires point of sale background check)(N.Y. Penal Law §§ 400.00- 400.01);	North Carolina
(handguns only)(N.C. Gen. Stat. §§ 14-402 -	14-404); and
Rhode Island (handguns only. Also requires point of check)(R. I. Gen. Laws §§ 1147-35 -	sale background 11-47-35.1.)

Ohio House of Representatives



ANNOUNCEMENT OF COMMITTEE MEETING

COMMITTEE: Government Oversight
CHAIR: Shane Wilkin
DATE: Thursday, October 28, 2021
TIME: 10:00 AM
ROOM: Room 121

AGENDA

<u>BILL</u>	<u>SPONSOR</u>	<u>TITLE</u>	<u>STATUS</u>
H. B. No. 227	Rep. Brinkman, Rep. Jordan	Regards concealed weapons and concealed carry without license	5th Hearing Poss. Vote Poss. Sub. Bill
H. B. No. 298	Rep. Bird, Rep. Miller, J.	Change voting membership - State Board of Education	3rd Hearing Poss. Am. Opponent
S. B. No. 9	Sen. McColley, Sen. Roegner	Reduce regulatory restrictions in administrative rules	3rd Hearing Poss. Am. Opponent
H. B. No. 376	Rep. Carfagna, Rep. Hall	Enact Ohio Personal Privacy Act	2nd Hearing Proponent
H. B. No. 243	Rep. Cutrona	Regards the regulation of knives	4th Hearing Prop/Opp/IP
H. B. No. 383	Rep. Koehler	Modify penalties for certain weapons offense	1st Hearing Sponsor

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 Committee Members
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 Caucus Staff
 Legislative Information Systems
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