

Testimony against HB455  
House Government Oversight Committee  
Submitted Douglas Rogers on February 16, 2022

Chair Wilkin, Vice Chair White, ranking member Brown and other members of the House Government Oversight Committee, thank you for this opportunity to submit testimony against HB455. HB455 would eviscerate (1) the rights of private property owners to prevent other individuals from carrying firearms onto the owner's private premises and (2) the right of schools, including private schools, to prevent individuals from carrying firearms into the schools.

Infringing the Rights of Private Property Owners

Current R.C. 2923.126(B) recognizes the rights of schools to ban firearms from schools:

“(B) A valid concealed handgun license .... does not authorize the licensee to carry a concealed handgun into any of the following places:  
... (2) A school safety zone if the licensee's carrying the concealed handgun is in violation of section 2923.122 of the Revised Code.”

Current R.C. 2923.126(C)(1) recognizes the rights of private property owners to prohibit others from bringing firearms onto their property and premises:

“(C)(1) Nothing in this section shall negate or restrict a rule, policy, or practice of a private employer that is not a private college, university, or other institution of higher education concerning or prohibiting the presence of firearms on the private employer's premises or property, including motor vehicles owned by the private employer.”

Current R.C. 2923.126(C)(3)(a) confirms it is a crime for someone to enter the building with a sign NO GUNS ALLOWED in the front door:

“the owner or person in control of private land or premises, and a private person or entity leasing land or premises owned by the state, the United States, or a political subdivision of the state or the United States, may post a sign in a conspicuous location on that land or on those premises prohibiting persons from carrying firearms or concealed firearms on or onto that land or those premises. ... a person who knowingly violates a posted prohibition of that nature is guilty of criminal trespass.” (emphasis added)

**Yet HB455 would throw into the trashcan that private property right** - recognized under the Fourteenth and Fifth Amendments of the United States Constitution. Proposed 2923.126(C)(3)(b) provides that a person with a concealed carry license (or presumably a “qualifying individual” without a license if SB215 passes) can carry his firearm into a private store without committing criminal trespass.

The person carrying a gun would only commit a crime under Proposed 2923.126(C)(3)(b) if subsequently:

- (1) The owner or some employee happens to notice that the individual is carrying a concealed firearm. Of course, some gun sellers advertise the fact that the gun that killed 4 students in Oakland Michigan School allowed the carrier to conceal the weapon (a SIG Sauer 9 millimeter model, a model Ethan Crumbley was carrying in Oakland, Michigan) is advertised as "the ultimate in concealability," so the store employee would not know he is carrying.
- (2) Has the courage to know that a new law allows the concealed gun carrier to disregard the law and enter the premises, but the clerk must ask the person carrying the firearm to leave and make sure that person does not come back into the premises for 30 days! In other words, this bill would also impose record-keeping requirements on the store owner to note when the person entered the store initially and when he returned.

Ohio's government has no business telling a private company that business cannot exclude someone from carrying a deadly weapon onto his/her premises unless the business owner takes steps beyond publicly posting a sign "NO GUNS ALLOWED."

In June of 2021, the Ohio Chamber of Commerce – while testifying against HB248 – said “in 2023, when Ohio legalized concealed carry, the Ohio Chamber urged that businesses be granted the right to decide whether to prohibit or allow the carrying of concealed handguns onto their property.” The Chamber continued, “The legislation that passed acknowledged this private property right of businesses, and still today businesses retain their right.”

The HB455 sponsor might respond that maybe the carrier did not know the firearm was prohibited on the premises. However, that is absurd, since the sponsor admitted that the law would apply even if a sign was posted on the front door: NO GUNS ALLOWED.

If the sponsor responds that the person carrying the gun did not know the law gives the property owner that right, then the sponsor and General Assembly should not support eliminating the requirement for training in what the gun law is in SB215.

No court has held that the Second Amendment gives one person a constitutional right to carry his/her gun into someone else's private property.

### School Zones

HB455 has a similar provision that would endanger school zones. Proposed 2923.122(E)(1)(b) provides:

**“(b) A person who has a valid concealed handgun license or who is a qualified military member and who is discovered carrying a deadly weapon in a school safety zone in violation of division (A) or (B) of this section is subject to removal from the school safety zone but is not guilty of illegal conveyance or possession of a deadly weapon or dangerous ordnance in a school safety zone. If the person refuses or fails to leave the school safety zone upon being requested to do so by the individual in control of the premises or by that individual's agent or employee, or returns within thirty days to the same school safety zone while knowingly in possession of a deadly weapon in violation of this**



section, the person is guilty of criminal trespass with a deadly weapon, as described in section 2923.1215 of the Revised Code.” (lines 699 – 712)(emphasis added)

In other words, if someone has a concealed carry license (or presumably assumed to have one under SB215) and intends to shoot up children/teachers in the school, he is not violating the law by entering the school grounds until someone asks that person to leave, assuming the teacher or other person can notice the concealed firearm.

This would appear to apply also to someone openly carrying a firearm into a school zone, as long as he had a CHL, and would inevitably lead to horrendous tragedies. See, e.g., New York Times, “Read the Prosecutor’s account of Events Before the Michigan School Shooting,” 12/3/21, @ <https://www.nytimes.com/2021/12/03/us/michigan-prosecutor-crumbley-charges.html> . See also New York Times, “5 Questions About the Michigan Shooting Addressed by School Officials,” December 5, 2021 @ <https://www.nytimes.com/2021/12/05/us/oxford-michigan-school-shooting-investigation.html> .

Representative Stoltzfus mentioned the Second Amendment right, but he is wrong about prohibiting others from carrying guns into private businesses owned by others, he is wrong about guns in schools and he is wrong about the meaning of the Second Amendment. The US Supreme Court said in *District of Columbia v. Heller*, 554 U.S. 570, 626 (2008), “nothing in our opinion should be taken to cast doubt on longstanding ... laws forbidding the carrying of firearms in sensitive places such as schools....” (p. 626).

Please vote against HB455. Thank you very much, and I would be pleased to answer any questions you have.

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