

Sean Maloney

Buckeye Firearms Association

HB 89

Removing the duty to “promptly” inform Law Enforcement.

2923.126(A) Duties of licensed individual.

If a licensee is the driver or an occupant of a motor vehicle that is stopped as the result of a traffic stop or a stop for another law enforcement purpose and if the licensee is transporting or has a loaded handgun in the motor vehicle at that time, the licensee shall *promptly* inform any law enforcement officer who approaches the vehicle while stopped that the licensee has been issued a concealed handgun license and that the licensee currently possesses or has a loaded handgun.

The issue becomes the meaning and interpretation of the word *promptly*. The problem, the vagueness, the broadness of the interpretation lies in the definition of the word *promptly* itself.

Black's Law Dictionary, the bible of legal meaning defines promptly as: Promptly. Adverbial form of the word “prompt,”

Which means ready and quick to act as occasion demands. The meaning of the word depends largely on the facts in each case, for what is “prompt” in one situation may not be considered such under other circumstances or conditions. To do something “promptly” is to do it without delay and with reasonable speed. Application of Beattie, 4 Storey 506, 180 A.2d 741, 744.

What is prompt to one person is not prompt to another.

The definition itself lends itself to interpretation, such interpretation does not often fairly occur at 12:30 am, during the nervousness and pressure of a traffic stop that the Concealed Carry Driver, is not accustomed, which means ready and quick to act as occasion demands.

Officer immediately upon walking up to car: where were you going in such a hurry? Do you know how fast you were going? You better slowdown. Why are you out so late? Can I see your license, proof of insurance and registration please?

Citizen immediately upon response to the officer: Yes, officer here is my license, insurance card; registration card and my Concealed Handgun License, I am a concealed handgun license holder, and I have it with me. Citizen promptly informs officer.

Officer: Thank you for letting me know you have a gun.

OR

Officer: You were supposed to promptly inform me of the fact that you were a concealed handgun license holder, and that you were armed. Why did you wait until now to tell me I am issuing you a citation for violating 2923.126(A) you failed to promptly inform me you had your firearm?

Remember promptly which means ready and quick to act as occasion demands. The meaning of the word depends largely on the facts in each case. We can all agree that under these facts the citizen, immediately after she fully cooperated with the Officer, by answering his questions, immediately complied and promptly informed the Police Officer that she was a CHL holder and had her firearm with her.

The commonsense approach: but at 12:30am based subjectively on the Police Officers understanding of promptly, you may be arrested for failing to promptly inform, or maybe you will not, it depends. Depends on what? The Officers definition and understanding of the word promptly at that moment because it could be different tomorrow, or even 30 min from now, based upon facts of the situation. Remember by definition “[t]he meaning of the word depends largely on the facts in each case.” Not the officer’s fault, not the citizens fault, when problems with laws like this exist the legislature must step in and correct a law that is not capable of being uniformly, fairly enforced.

Promptly during the heat of the moment becomes whatever the person at the side of the road interprets it to be. Maybe 10 min earlier the Officer had to wrestle a

person with a felony warrant, stopped in a similar traffic stop, to the ground. Think maybe his mood and interpretation of promptly may be a little narrower?

It all comes down to the reality that because of the subjective meaning of the word “promptly” the law is placing both the Officer and the Citizen at odds.

“As soon as the officer approaches even though my mother and the Sisters of Mercy taught me never to interrupt, with my hands in plain view on the steering wheel; my window rolled down; my dome lights on; I interrupt and announce Officer I am a concealed carry license holder and I have it with me do you have any instructions?” But not everyone has my personality and will do that. It is rude and impolite. Mom and the Sisters taught me that.

How do other states handle it, how do they interact with their citizens? Most States simply require that you inform the Officer if she asks; most States require their citizens to simply honestly respond if asked, it is common sense that a police officer would ask a CHL holder or any driver for that matter, do you have any Guns in the car? Yes, I am a concealed carry holder, here my permit my gun is on my right hip.

As an attorney I have represented people who have used lethal force to defend their life. I have defended those who brandished. Many more times I have given advice too and represented those charged for failing to promptly inform.

For those people who simply followed instructions and handed their permit to the officer with their license and registration; they paid me to defend them.

Those that were simply so overwhelmed by being pulled over, they paid me to represent them.

I represented a gentleman who was pulled over by a DNR officer, outside a Cowan Lake state park, late at night driving home, after setting up camp and leaving his family to camp until he returned from work the next day. He had a top-secret security clearance; just plain forgot to inform the DNR Officer, late at night that he was carrying his legally permitted concealed handgun. My client risked losing his security clearance and job.

I was contacted by a Client after 4 officers showed up to a fender bender he was involved in; he promptly informed 3 did not know there was 4 and cited by number 4, for failure to promptly inform.

The statute itself sets the law-abiding gun owner up for failure, the law is at best inconsistently applied, at worst the law unfairly impacts the otherwise law-abiding citizen.

It is not the fault of the Police Officer at the side of the road during a traffic stop; it is not the fault of the law-abiding Concealed Handgun License holder. If we place blame, it is proper to place it on a statute that relies on a word, “promptly,” that is subject to a wide range of interpretations. For this reason, it is the duty of the legislature to correct the current law so that it can be uniformly, consistently, fairly enforced with universal understanding of the requirements of the law.

The duty should be placed on the law enforcement officer who is trained and may perform a dozen or more stops daily. They should inquire if there is a CHL or any dangerous weapons in the motor vehicle for their own safety, and not rely on the admission of the operator or passenger in the motor vehicle who as noted above is not in the best position to notify, “promptly” or otherwise