

As Introduced

134th General Assembly

Regular Session

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S. B. No. 185

Senator Schaffer

**Cosponsors: Senators Johnson, Brenner, Rulli, Lang, Antani, Kunze, Peterson,
O'Brien, Romanchuk, Roegner, Hottinger**

A BILL

To amend section 3761.16 and to enact section 1
5502.411 of the Revised Code regarding a 2
political subdivision's emergency powers when 3
suppressing a riot, mob, or potential riot or 4
mob and the preservation of rights regarding 5
firearms during an emergency. 6

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 3761.16 be amended and section 7
5502.411 of the Revised Code be enacted to read as follows: 8

Sec. 3761.16. The chief administrative officer of a 9
political subdivision with police powers, when engaged in 10
suppressing a riot or a mob or when there is a clear and present 11
danger of a riot or a mob, may cordon off any area or areas 12
threatened by the riot or the mob and prohibit persons from 13
entering the cordoned off area or areas except when carrying on 14
necessary and legitimate pursuits ~~and may prohibit the sale,~~ 15
~~offering for sale, dispensing, or transportation of firearms or~~ 16
~~other dangerous weapons, ammunition, dynamite, or other~~ 17
~~dangerous explosives in, to, or from the cordoned off areas.~~ 18

Sec. 5502.411. (A) As used in this section: 19

(1) "Ammunition" has the same meaning as in section 20
2305.401 of the Revised Code. 21

(2) "Concealed handgun license," "deadly weapon," 22
"firearm," and "valid concealed handgun license" have the same 23
meanings as in section 2923.11 of the Revised Code. 24

(3) "Licensee" has the same meaning as in section 2923.124 25
of the Revised Code. 26

(B) The transport, storage, sale, transfer, commerce in, 27
import and export of, distribution, repair, maintenance, and 28
manufacture of firearms, ammunition, and related accessories and 29
components, shooting ranges, and other goods and services 30
directly related to lawful firearm possession, use, storage, 31
repair, maintenance, sale, transfer, and training in the use of 32
firearms, are declared to be life-sustaining "essential" 33
businesses and services for the purposes of safety and security 34
in times of declared emergency or any other statutorily 35
authorized response to any disaster, war, act of terrorism, 36
riot, civil disorder, public health crisis, or emergency of 37
whatever kind or nature. 38

(C) Except as provided in this section, no state agency, 39
political subdivision, or elected or appointed official or 40
employee of this state or any political subdivision may, under 41
any governmental authority or color of law exercised as part of 42
any statutorily authorized response to any disaster, war, act of 43
terrorism, riot, civil disorder, public health crisis, or 44
emergency of whatever kind or nature, do any of the following: 45

(1) Prohibit, regulate, or curtail the otherwise lawful 46
possession, carrying, display, sale, transportation, transfer, 47

<u>defensive use, or other lawful use of any of the following:</u>	48
<u>(a) Any firearm, including any component or accessory of a</u>	49
<u>firearm;</u>	50
<u>(b) Any ammunition, including any component or accessory</u>	51
<u>of ammunition;</u>	52
<u>(c) Any ammunition-reloading equipment, component, or</u>	53
<u>supplies;</u>	54
<u>(d) Any deadly weapon.</u>	55
<u>(2) Require registration of firearm owners, of any</u>	56
<u>firearms, including any component or accessory of a firearm, or</u>	57
<u>of any ammunition, including any component or accessory of</u>	58
<u>ammunition;</u>	59
<u>(3) Seize, commandeer, or confiscate in any manner, any of</u>	60
<u>the following items that are privately owned and that are</u>	61
<u>possessed, carried, displayed, sold, transferred, transported,</u>	62
<u>stored, or used in connection with otherwise lawful conduct:</u>	63
<u>(a) Any firearm, including any component or accessory of a</u>	64
<u>firearm;</u>	65
<u>(b) Any ammunition, including any component or accessory</u>	66
<u>of ammunition;</u>	67
<u>(c) Any ammunition-reloading equipment, component, or</u>	68
<u>supplies;</u>	69
<u>(d) Any deadly weapon.</u>	70
<u>(4) Suspend or revoke a valid concealed handgun license,</u>	71
<u>except as expressly authorized in Chapter 2923. of the Revised</u>	72
<u>Code;</u>	73
<u>(5) Refuse to accept or process an application for a</u>	74

concealed handgun license or for renewal of a concealed handgun 75
license, provided the application for the license has been 76
properly completed and submitted in accordance with section 77
2923.125 or 2923.1213 of the Revised Code and the application 78
for the renewal has been properly completed and submitted in 79
accordance with section 2923.125 of the Revised Code; 80

(6) Prohibit, suspend, or limit the business operations of 81
any entity engaged in the lawful selling or servicing of any 82
firearms or ammunition, including any components or accessories 83
of firearms or ammunition, any ammunition-reloading equipment, 84
component, or supplies, or any deadly weapons; 85

(7) Prohibit, suspend, or limit the business operations of 86
any indoor or outdoor shooting range, whether located on state 87
lands or on land other than state lands, or of any entity 88
engaged in providing firearms safety, firearms training, 89
firearms license qualification or requalification, firearms 90
safety instructor courses, or any similar class, course, or 91
program; 92

(8) Place restrictions or quantity limitations on any 93
entity regarding the lawful sale or servicing of any of the 94
following: 95

(a) Any firearm, including any component or accessory of a 96
firearm; 97

(b) Any ammunition, including any component or accessory 98
of ammunition; 99

(c) Any ammunition-reloading equipment, component, or 100
supplies; 101

(d) Any deadly weapon. 102

(9) Suspend, restrict, or prohibit otherwise lawful 103
hunting, fishing, or trapping activities or business entities 104
conducting or directly facilitating lawful hunting, trapping, or 105
fishing activities, whether conducted on state lands and waters 106
or on land and waters other than state lands and waters. 107

(D) (1) If a concealed handgun license has been issued to a 108
licensee under either section 2923.125 or 2923.1213 of the 109
Revised Code, if the governor issues an executive order 110
declaring an emergency, and if the date that the valid and 111
existing license would or is scheduled to expire falls within 112
the period of emergency declared by the governor's executive 113
order or the thirty days immediately preceding the date of that 114
declaration, then, notwithstanding the date of scheduled 115
expiration, the license is automatically extended throughout the 116
duration of the period of the emergency plus an additional 117
ninety days. If, during the period of the emergency or during 118
the additional ninety days, a licensee issued a license under 119
section 2923.125 of the Revised Code submits an application for 120
renewal of the license or schedules an appointment with the 121
issuing authority or another authority authorized to renew the 122
license, the license is further automatically extended until the 123
renewal application is accepted and fully processed. 124

(2) If division (D) (1) of this section applies with 125
respect to a concealed handgun license, during the extension 126
period described in that division that is applicable to that 127
license, all of the following apply: 128

(a) The license shall be valid for all purposes under the 129
laws of this state and the person to whom the license was issued 130
shall be considered for all purposes under the laws of this 131
state to be the holder of a valid license to carry a concealed 132

handgun, and the license shall be valid for all purposes under 133
section 2923.128 of the Revised Code; 134

(b) The license remains subject to the operation of 135
section 2923.128 of the Revised Code during the extended period 136
of the license and at any other time; 137

(c) Except for the date of scheduled expiration, all other 138
conditions and restrictions otherwise applicable to the license 139
and the license holder continue to apply during the extended 140
period of the license and at any other time. 141

(E) Notwithstanding any inconsistent provision of law, 142
including sections 5502.30 and 5502.35 of the Revised Code: 143

(1) A person, group, or entity adversely affected by any 144
manner of law, ordinance, rule, regulation, resolution, 145
practice, or other action enacted or enforced in violation of 146
this section may file an action for damages, injunctive relief, 147
declaratory relief, or other appropriate redress in the court of 148
common pleas of the county in which the aggrieved person resides 149
or the group or entity is located, or in which the violation 150
occurred. 151

(2) In an action brought under authority of division (E) 152
(1) of this section: 153

(a) A person, group, or entity adversely affected by any 154
manner of law, ordinance, rule, regulation, resolution, 155
practice, or other action enacted or enforced by any state 156
agency, any political subdivision, or any elected or appointed 157
official or employee of the state or of a political subdivision 158
in conflict with this section may bring a civil action against 159
the state agency, political subdivision, or elected or appointed 160
official or employee of the state or of the political 161

subdivision seeking damages, declaratory relief, injunctive 162
relief, or a combination of those remedies. Any damages awarded 163
shall be awarded against, and paid by, the state, the agency, or 164
the political subdivision. In addition to any actual damages 165
awarded against the state, the agency, or the political 166
subdivision and any other relief provided with respect to such 167
an action, the court shall award reasonable expenses to any 168
person, group, or entity that brings the action, to be paid by 169
the state, agency, or political subdivision, if either of the 170
following applies: 171

(i) The person, group, or entity prevails in a challenge 172
to the law, ordinance, rule, regulation, resolution, practice, 173
or action as being in conflict with this section. 174

(ii) The law, ordinance, rule, regulation, resolution, 175
practice, or action or the manner of its enforcement is repealed 176
or rescinded after the civil action was filed but prior to a 177
final court determination of the action. 178

(b) In addition to any other remedy available at law or in 179
equity, a person, group, or entity aggrieved by the seizure or 180
confiscation, in violation of this section, of one or more items 181
listed in division (C) (3) of this section may apply to the court 182
of common pleas of the county in which the item or items were 183
seized or confiscated for the immediate return of the item or 184
items. Except as otherwise provided in division (E) (2) (a) of 185
this section, upon receipt of the application and a 186
determination by the court that the seizure or confiscation of 187
the item or items was in violation of this section, the court 188
shall order the immediate return of the item or items by the 189
seizing or confiscating governmental office and that office's 190
employed officials. If a court orders the return of the seized 191

or confiscated item or items under this division and the item or 192
items are not returned in accordance with the order, the 193
aggrieved party may claim reasonable costs and attorney fees for 194
the loss and, the cost of reclaiming the item or items, or the 195
cost of any damages to the item or items. 196

(F) The provisions contained in the amendments to section 197
3761.16 of the Revised Code and the enactment of this section by 198
_____ B. _____ of the 134th general assembly are severable, as 199
provided in section 1.50 of the Revised Code. In particular, it 200
is the intent of the general assembly that any invalidity or 201
potential invalidity of a provision contained in those 202
amendments or this section is not to impair the immediate and 203
continuing enforceability of the remaining provisions. 204

Section 2. That existing section 3761.16 of the Revised 205
Code is hereby repealed. 206