

As Passed by the Senate

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Sub. S. B. No. 185

Senator Schaffer

Cosponsors: Senators Johnson, Brenner, Rulli, Lang, Antani, Kunze, Peterson, O'Brien, Romanchuk, Roegner, Hottinger, Hoagland, Blessing, Cirino, Gavarone, McColley, Wilson

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
deadly weapons and 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 deadly weapons or firearms, ammunition, and 29
accessories and components related to deadly weapons or 30
firearms, shooting ranges, and other goods and services directly 31
related to lawful deadly weapon or firearm possession, use, 32
storage, repair, maintenance, sale, transfer, and training in 33
the use of deadly weapons or firearms, are declared to be life- 34
sustaining "essential" businesses and services for the purposes 35
of safety and security in times of declared emergency or any 36
other statutorily authorized response to any disaster, war, act 37
of terrorism, riot, civil disorder, public health crisis, or 38
emergency of whatever kind or nature. 39

(C) Except as provided in this section, no state agency, 40
political subdivision, elected or appointed official or employee 41
of this state or any political subdivision, or agent of this 42
state or of any political subdivision, board, commission, 43
bureau, or other public body established by law may, under any 44
governmental authority or color of law exercised as part of any 45
statutorily authorized response to any disaster, war, act of 46

<u>terrorism, riot, civil disorder, public health crisis, or</u>	47
<u>emergency of whatever kind or nature, do any of the following:</u>	48
<u>(1) Prohibit, regulate, or curtail the otherwise lawful</u>	49
<u>possession, carrying, display, sale, transportation, transfer,</u>	50
<u>defensive use, or other lawful use of any of the following:</u>	51
<u>(a) Any firearm, including any component or accessory of a</u>	52
<u>firearm;</u>	53
<u>(b) Any ammunition, including any component or accessory</u>	54
<u>of ammunition;</u>	55
<u>(c) Any ammunition-reloading equipment, component, or</u>	56
<u>supplies;</u>	57
<u>(d) Any deadly weapon, including any component or</u>	58
<u>accessory of a deadly weapon.</u>	59
<u>(2) Require registration of deadly weapon or firearm</u>	60
<u>owners, of any firearms, including any component or accessory of</u>	61
<u>a firearm, of any ammunition, including any component or</u>	62
<u>accessory of ammunition, or of any deadly weapon, including any</u>	63
<u>component or accessory of a deadly weapon;</u>	64
<u>(3) Seize, commandeer, or confiscate in any manner, any of</u>	65
<u>the following items that are possessed, carried, displayed,</u>	66
<u>sold, transferred, transported, stored, or used in connection</u>	67
<u>with otherwise lawful conduct:</u>	68
<u>(a) Any firearm, including any component or accessory of a</u>	69
<u>firearm;</u>	70
<u>(b) Any ammunition, including any component or accessory</u>	71
<u>of ammunition;</u>	72
<u>(c) Any ammunition-reloading equipment, component, or</u>	73

<u>supplies;</u>	74
<u>(d) Any deadly weapon, including any component or accessory of a deadly weapon.</u>	75 76
<u>(4) Suspend or revoke a valid concealed handgun license, except as expressly authorized in Chapter 2923. of the Revised Code;</u>	77 78 79
<u>(5) Refuse to accept or process an application for a concealed handgun license or for renewal of a concealed handgun license, provided the application for the license has been properly completed and submitted in accordance with section 2923.125 or 2923.1213 of the Revised Code and the application for the renewal has been properly completed and submitted in accordance with section 2923.125 of the Revised Code;</u>	80 81 82 83 84 85 86
<u>(6) Prohibit, suspend, or limit the business operations of any entity engaged in the lawful selling or servicing of any firearms or ammunition, including any components or accessories of firearms or ammunition, any ammunition-reloading equipment, component, or supplies, or any deadly weapons, including any component or accessory of deadly weapons;</u>	87 88 89 90 91 92
<u>(7) Prohibit, suspend, or limit the business operations of any indoor or outdoor shooting range, whether located on state lands or on land other than state lands, or of any entity engaged in providing deadly weapon or firearms safety, deadly weapon or firearms training, firearms license qualification or requalification, firearms safety instructor courses, or any similar class, course, or program;</u>	93 94 95 96 97 98 99
<u>(8) Place restrictions or quantity limitations on any entity regarding the lawful sale or servicing of any of the following:</u>	100 101 102

<u>(a) Any firearm, including any component or accessory of a</u>	103
<u>firearm;</u>	104
<u>(b) Any ammunition, including any component or accessory</u>	105
<u>of ammunition;</u>	106
<u>(c) Any ammunition-reloading equipment, component, or</u>	107
<u>supplies;</u>	108
<u>(d) Any deadly weapon, including any component or</u>	109
<u>accessory of a deadly weapon.</u>	110
<u>(9) Suspend, restrict, or prohibit otherwise lawful</u>	111
<u>hunting, fishing, or trapping activities or business entities</u>	112
<u>conducting or directly facilitating lawful hunting, trapping, or</u>	113
<u>fishing activities, whether conducted on state lands and waters</u>	114
<u>or on land and waters other than state lands and waters.</u>	115
<u>(D) (1) If a concealed handgun license has been issued to a</u>	116
<u>licensee under either section 2923.125 or 2923.1213 of the</u>	117
<u>Revised Code, if the governor issues an executive order</u>	118
<u>declaring an emergency, and if the date that the valid and</u>	119
<u>existing license would or is scheduled to expire falls within</u>	120
<u>the period of emergency declared by the governor's executive</u>	121
<u>order or the thirty days immediately preceding the date of that</u>	122
<u>declaration, then, notwithstanding the date of scheduled</u>	123
<u>expiration, the license is automatically extended throughout the</u>	124
<u>duration of the period of the emergency plus an additional</u>	125
<u>ninety days. If, during the period of the emergency or during</u>	126
<u>the additional ninety days, a licensee issued a license under</u>	127
<u>section 2923.125 of the Revised Code submits an application for</u>	128
<u>renewal of the license or schedules an appointment with the</u>	129
<u>issuing authority or another authority authorized to renew the</u>	130
<u>license, the license is further automatically extended until the</u>	131

renewal application is accepted and fully processed. 132

(2) If division (D) (1) of this section applies with 133
respect to a concealed handgun license, during the extension 134
period described in that division that is applicable to that 135
license, all of the following apply: 136

(a) The license shall be valid for all purposes under the 137
laws of this state and the person to whom the license was issued 138
shall be considered for all purposes under the laws of this 139
state to be the holder of a valid license to carry a concealed 140
handgun, and the license shall be valid for all purposes under 141
section 2923.128 of the Revised Code; 142

(b) The license remains subject to the operation of 143
section 2923.128 of the Revised Code during the extended period 144
of the license and at any other time; 145

(c) Except for the date of scheduled expiration, all other 146
conditions and restrictions otherwise applicable to the license 147
and the license holder continue to apply during the extended 148
period of the license and at any other time. 149

(E) Notwithstanding any inconsistent provision of law, 150
including sections 5502.30 and 5502.35 of the Revised Code: 151

(1) A person, group, or entity adversely affected by any 152
manner of law, ordinance, rule, regulation, resolution, 153
practice, or other action enacted or enforced in violation of 154
this section may file an action for damages, injunctive relief, 155
declaratory relief, or other appropriate redress in the court of 156
common pleas of the county in which the aggrieved person resides 157
or the group or entity is located, or in which the violation 158
occurred. 159

(2) In an action brought under authority of division (E) 160

<u>(1) of this section:</u>	161
<u>(a) A person, group, or entity adversely affected by any</u>	162
<u>manner of law, ordinance, rule, regulation, resolution,</u>	163
<u>practice, or other action enacted or enforced by any state</u>	164
<u>agency, any political subdivision, any elected or appointed</u>	165
<u>official or employee of the state or of a political subdivision,</u>	166
<u>or any agent of the state or of any political subdivision,</u>	167
<u>board, commission, bureau, or other public body established by</u>	168
<u>law in conflict with this section may bring a civil action</u>	169
<u>against the state agency, political subdivision, elected or</u>	170
<u>appointed official or employee of the state or of the political</u>	171
<u>subdivision, or agent of the state or of the political</u>	172
<u>subdivision, board, commission, bureau, or other public body</u>	173
<u>seeking damages, declaratory relief, injunctive relief, or a</u>	174
<u>combination of those remedies. Any damages awarded shall be</u>	175
<u>awarded against, and paid by, the state, the agency, the</u>	176
<u>political subdivision, or the board, commission, bureau, or</u>	177
<u>other public body. In addition to any actual damages awarded</u>	178
<u>against the state, the agency, the political subdivision, or the</u>	179
<u>board, commission, bureau, or other public body and any other</u>	180
<u>relief provided with respect to such an action, the court shall</u>	181
<u>award reasonable expenses to any person, group, or entity that</u>	182
<u>brings the action, to be paid by the state, agency, political</u>	183
<u>subdivision, or board, commission, bureau, or other public body,</u>	184
<u>if either of the following applies:</u>	185
<u>(i) The person, group, or entity prevails in a challenge</u>	186
<u>to the law, ordinance, rule, regulation, resolution, practice,</u>	187
<u>or action as being in conflict with this section.</u>	188
<u>(ii) The law, ordinance, rule, regulation, resolution,</u>	189
<u>practice, or action or the manner of its enforcement is repealed</u>	190

or rescinded after the civil action was filed but prior to a 191
final court determination of the action. 192

(b) In addition to any other remedy available at law or in 193
equity, a person, group, or entity aggrieved by the seizure or 194
confiscation, in violation of this section, of one or more items 195
listed in division (C) (3) of this section may apply to the court 196
of common pleas of the county in which the item or items were 197
seized or confiscated for the immediate return of the item or 198
items. Except as otherwise provided in division (E) (2) (a) of 199
this section, upon receipt of the application and a 200
determination by the court that the seizure or confiscation of 201
the item or items was in violation of this section, the court 202
shall order the immediate return of the item or items by the 203
seizing or confiscating state agency, political subdivision, 204
board, commission, bureau, or other public body and that 205
entity's employed officials. If a court orders the return of the 206
seized or confiscated item or items under this division and the 207
item or items are not returned in accordance with the order, the 208
aggrieved party may claim reasonable costs and attorney fees for 209
the loss and, the cost of reclaiming the item or items, or the 210
cost of any damages to the item or items. 211

(F) The provisions contained in the amendments to section 212
3761.16 of the Revised Code and the enactment of this section by 213
_____ B. _____ of the 134th general assembly are severable, as 214
provided in section 1.50 of the Revised Code. In particular, it 215
is the intent of the general assembly that any invalidity or 216
potential invalidity of a provision contained in those 217
amendments or this section is not to impair the immediate and 218
continuing enforceability of the remaining provisions. 219

Section 2. That existing section 3761.16 of the Revised 220

Code is hereby repealed.

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