As Passed by the Senate

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Am. S. B. No. 279

Senator Johnson

Cosponsors: Senators O'Brien, Koehler, Manchester, Roegner, Huffman, Brenner, Chavez, Cirino, Cutrona, Gavarone, Landis, Lang, Patton, Romanchuk, Schaffer

To amend sections 2923.121 and 2923.1214 and to enact section 2923.1215 of the Revised Code to prohibit a business, state agency, or political subdivision from discouraging or prohibiting a law enforcement officer from carrying a weapon while off duty.

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

Section 1. That sections 2923.121 and 2923.1214 be amended and section 2923.1215 of the Revised Code be enacted to read as follows:

Sec. 2923.121. (A) No person shall possess a firearm in any room in which any person is consuming beer or intoxicating liquor in a premises for which a D permit has been issued under Chapter 4303. of the Revised Code or in an open air arena for which a permit of that nature has been issued.

(B)(1) This section does not apply to any of the following:

(a) An officer, agent, or employee of this or any other state or the United States, or a law enforcement officer, who is

authorized to carry firearms and is acting within the scope of the officer's, agent's, or employee's duties;

(b) A law enforcement officer or investigator who is authorized to carry firearms but is not acting within the scope of the officer's or investigator's duties, as long as ~~all~~ both of the following apply:

(i) The officer or investigator is carrying validating identification.

(ii) ~~If the firearm the officer or investigator possesses is a firearm issued or approved by the law enforcement agency served by the officer or by the bureau of criminal identification and investigation with respect to an investigator, the agency or bureau does not have a restrictive firearms carrying policy.~~

~~(iii)~~ The officer or investigator is not consuming beer or intoxicating liquor and is not under the influence of alcohol or a drug of abuse.

(c) Any room used for the accommodation of guests of a hotel, as defined in section 4301.01 of the Revised Code;

(d) The principal holder of a D permit issued for a premises or an open air arena under Chapter 4303. of the Revised Code while in the premises or open air arena for which the permit was issued if the principal holder of the D permit also has been issued a concealed handgun license that is valid at the time in question and as long as the principal holder is not consuming beer or intoxicating liquor or under the influence of alcohol or a drug of abuse, or any agent or employee of that holder who also is a peace officer, as defined in section 2151.3515 of the Revised Code, who is off duty, and who

otherwise is authorized to carry firearms while in the course of the officer's official duties and while in the premises or open air arena for which the permit was issued and as long as the agent or employee of that holder is not consuming beer or intoxicating liquor or under the influence of alcohol or a drug of abuse.

(e) Any person who has been issued a concealed handgun license that is valid at the time in question or any person who is an active duty member of the armed forces of the United States and is carrying a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in division (G)(1) of section 2923.125 of the Revised Code, as long as the person is not consuming beer or intoxicating liquor or under the influence of alcohol or a drug of abuse.

(2) This section does not prohibit any person who is a member of a veteran's organization, as defined in section 2915.01 of the Revised Code, from possessing a rifle in any room in any premises owned, leased, or otherwise under the control of the veteran's organization, if the rifle is not loaded with live ammunition and if the person otherwise is not prohibited by law from having the rifle.

(3) This section does not apply to any person possessing or displaying firearms in any room used to exhibit unloaded firearms for sale or trade in a soldiers' memorial established pursuant to Chapter 345. of the Revised Code, in a convention center, or in any other public meeting place, if the person is an exhibitor, trader, purchaser, or seller of firearms and is not otherwise prohibited by law from possessing, trading, purchasing, or selling the firearms.

(C) It is an affirmative defense to a charge under this section of illegal possession of a firearm in a liquor permit premises that involves the possession of a firearm other than a handgun, that the actor was not otherwise prohibited by law from having the firearm, and that any of the following apply:

(1) The firearm was carried or kept ready at hand by the actor for defensive purposes, while the actor was engaged in or was going to or from the actor's lawful business or occupation, which business or occupation was of such character or was necessarily carried on in such manner or at such a time or place as to render the actor particularly susceptible to criminal attack, such as would justify a prudent person in going armed.

(2) The firearm was carried or kept ready at hand by the actor for defensive purposes, while the actor was engaged in a lawful activity, and had reasonable cause to fear a criminal attack upon the actor or a member of the actor's family, or upon the actor's home, such as would justify a prudent person in going armed.

(D) No person who is charged with a violation of this section shall be required to obtain a concealed handgun license as a condition for the dismissal of the charge.

(E) Whoever violates this section is guilty of illegal possession of a firearm in a liquor permit premises. Except as otherwise provided in this division, illegal possession of a firearm in a liquor permit premises is a felony of the fifth degree. If the offender commits the violation of this section by knowingly carrying or having the firearm concealed on the offender's person or concealed ready at hand, illegal possession of a firearm in a liquor permit premises is a felony of the third degree.

(F) As used in this section:

(1) "Beer" and "intoxicating liquor" have the same meanings as in section 4301.01 of the Revised Code.

(2) "Investigator" has the same meaning as in section 109.541 of the Revised Code.

(3) ~~"Restrictive firearms carrying policy" means a specific policy of a law enforcement agency or the bureau of criminal identification and investigation that prohibits all officers of the agency or all investigators of the bureau, while not acting within the scope of the officer's or investigator's duties, from doing either of the following:~~

~~(a) Carrying a firearm issued or approved by the agency or bureau in any room, premises, or arena described in division (A) of this section;~~

~~(b) Carrying a firearm issued or approved by the agency or bureau in premises described in division (A) of section 2923.1214 of the Revised Code.~~

~~(4)~~ "Law enforcement officer" has the same meaning as in section 9.69 of the Revised Code.

~~(5)~~ (4) "Validating identification" means one of the following:

(a) Photographic identification issued by the law enforcement agency for which an individual serves as a law enforcement officer that identifies the individual as a law enforcement officer of the agency;

(b) Photographic identification issued by the bureau of criminal identification and investigation that identifies an individual as an investigator of the bureau.

Sec. 2923.1214. (A) ~~Subject to division (B) of this section, an~~ An establishment serving the public may not prohibit ~~or~~, restrict, or discourage a law enforcement officer or investigator who is carrying validating identification from carrying a weapon on the premises that the officer or investigator is authorized to carry, regardless of whether the officer or investigator is acting within the scope of that officer's or investigator's duties while carrying the weapon.

~~(B) Division (A) of this section does not apply with respect to a law enforcement officer's or investigator's carrying of a weapon on the premises of an establishment serving the public if the officer or investigator is not acting within the scope of the officer's or investigator's duties, the weapon is a firearm issued or approved by the law enforcement agency served by the officer or by the bureau of criminal identification and investigation with respect to an investigator, and the agency or bureau has a restrictive firearms carrying policy.~~

~~(C)(1)~~(B)(1) Subject to division ~~(C)(2)~~(B)(2) of this section, the owner of an establishment serving the public, the operator of an establishment serving the public, and the employer of persons employed at an establishment serving the public shall be immune from liability in a civil action for injury, death, or loss to person or property that allegedly was caused by or related to a law enforcement officer or investigator bringing a weapon into the establishment or onto the premises of the establishment.

(2) The immunity provided in division ~~(C)(1)~~(B)(1) of this section is not available to an owner, operator, or employer of an establishment serving the public with respect to injury,

death, or loss to person or property of the type described in that division if the owner, operator, or employer engaged in an act or omission that contributed to the injury, death, or loss and the owner's, operator's, or employer's act or omission was with malicious purpose, in bad faith, or in a wanton or reckless manner.

~~(D)~~ (C) As used in this section:

(1) "Establishment serving the public" means a hotel, a restaurant or other place where food is regularly offered for sale, a retail business or other commercial establishment or office building that is open to the public, a sports venue, or any other place of public accommodation, amusement, or resort that is open to the public.

(2) "Hotel" has the same meaning as in section 3731.01 of the Revised Code.

(3) "Sports venue" means any arena, stadium, or other facility that is used primarily as a venue for sporting and athletic events for which admission is charged.

(4) "Investigator" has the same meaning as in section 109.541 of the Revised Code.

(5) ~~"Restrictive firearm carrying policy" and "validating~~ "Validating identification" ~~have~~ has the same meanings as in section 2923.121 of the Revised Code.

(6) "Law enforcement officer" has the same meaning as in section 9.69 of the Revised Code.

Sec. 2923.1215. No state agency or political subdivision shall prohibit or discourage a peace officer employed by the state or political subdivision from carrying a weapon that the

law enforcement officer is authorized to carry while the officer is off duty.

Section 2. That existing sections 2923.121 and 2923.1214 of the Revised Code are hereby repealed.