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H.B. 86
133rd General Assembly

Final Analysis

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Version: As Passed by the General Assembly

Primary Sponsor: Rep. Plummer

Effective date: Emergency: March 11, 2019; amended definition effective March 28, 2019

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SUMMARY

- Clarifies that certain firearms are not “dangerous ordnance” under the Weapons Law.

DETAILED ANALYSIS

The term “dangerous ordnance” is defined for purposes of the Weapons Law. The definition lists items that are dangerous ordnance, and exceptions to the list that are not dangerous ordnance.¹

Operation of the act

The act removes firearms with an overall length of at least 26 inches that are approved for sale by the Federal Bureau of Alcohol, Tobacco, Firearms, and Explosives (BATFE) under the “Gun Control Act of 1968,” 18 U.S.C. 921(a)(3), but that are found by BATFE not to be regulated under the “National Firearms Act,” 26 U.S.C. 5845(a) from the list of items that are dangerous ordnance.²

The act adds firearms with an overall length of at least 26 inches that are approved for sale by BATFE under the “Gun Control Act of 1968,” 18 U.S.C. 921(a)(3), but that are found by BATFE not to be regulated under the “National Firearms Act,” 26 U.S.C. 5845(a), to the list of items that are not dangerous ordnance.³

¹ R.C. 2923.11(L) and (K).

² R.C. 2923.11(K)(7).

³ R.C. 2923.11(L)(7).

Purpose and intent of the act

The purpose of the act is to correct a drafting error made in 2018 in H.B. 228 of the 132nd General Assembly. H.B. 228 inadvertently included firearms with an overall length of at least 26 inches that are approved for sale by BATFE under the “Gun Control Act of 1968,” 18 U.S.C. 921(a)(3), but that are found by BATFE not to be regulated under the “National Firearms Act,” 26 U.S.C. 5845(a) within the list of items that are dangerous ordnance. The intent of the act is to add firearms with an overall length of at least 26 inches that are approved for sale by BATFE under the “Gun Control Act of 1968,” 18 U.S.C. 921(a)(3), but that are found by BATFE not to be regulated under the “National Firearms Act,” 26 U.S.C. 5845(a) to the list of items that are not dangerous ordnance.⁴

Declaration of emergency and effective date

The act declares that it is an emergency measure and will go into immediate effect. It specifies that its amendments to the “dangerous ordnance” definition take effect on March 28, 2019, which is the effective date of H.B. 228, or on the act’s effective date (March 11, 2019), whichever is later. Therefore, those amendments take effect March 28, 2019.

Retroactivity

In anticipation of the possibility that the act might have taken effect after March 28, 2019, which is the effective date of H.B. 228, the act specifies that its amendments to the “dangerous ordnance” definition apply retroactively to any civil or criminal proceeding based on conduct that occurred on or after March 28, 2019, and prior to the effective date of the act (which is March 11, 2019). Because that possibility did not come about, however, this specification appears to have no application.

Continuing law

Items that are dangerous ordnance

Under continuing law, “dangerous ordnance” means any of the following, subject to the exceptions below:⁵

1. Any automatic or sawed-off firearm, zip-gun, or ballistic knife (note that H.B. 228 of the 132nd General Assembly also modified the definition of “sawed-off firearm” to exclude firearms with an overall length of at least 26 inches that are approved for sale by BATFE under the “Gun Control Act of 1968,” 18 U.S.C. 921(a)(3), but that are found by BATFE not to be regulated under the “National Firearms Act,” 26 U.S.C. 5845(a));
2. Any explosive device or incendiary device;
3. Nitroglycerin, nitrocellulose, nitrostarch, PETN, cyclonite, TNT, picric acid, and other high explosives; amatol, tritonal, tetrytol, pentolite, pecretol, cyclotol, and other high

⁴ Section 3.

⁵ R.C. 2923.11(K).

explosive compositions; plastic explosives; dynamite, blasting gelatin, gelatin dynamite, sensitized ammonium nitrate, liquid-oxygen blasting explosives, blasting powder, and other blasting agents; and any other explosive substance having sufficient brisance or power to be particularly suitable for use as a military explosive, or for use in mining, quarrying, excavating, or demolitions;

4. Any firearm, rocket launcher, mortar, artillery piece, grenade, mine, bomb, torpedo, or similar weapon, designed and manufactured for military purposes, and the ammunition for that weapon;
5. Any firearm muffler or suppressor;
6. Any combination of parts that is intended by the owner for use in converting any firearm or other device into a dangerous ordnance.

Items that are not dangerous ordnance

Under continuing law, modified by the act to include item (7), below, “dangerous ordnance” does not mean any of the following:⁶

1. Any firearm, including a military weapon and its ammunition, and regardless of its actual age, that employs a percussion cap or other obsolete ignition system, or that is designed and safe for use only with black powder;
2. Any pistol, rifle, or shotgun, designed or suitable for sporting purposes, including a military weapon as issued or as modified, and its ammunition, unless the firearm is an automatic or sawed-off firearm;
3. Any cannon or other artillery piece that, regardless of its actual age, is of a type in accepted use prior to 1887, has no mechanical, hydraulic, pneumatic, or other system for absorbing recoil and returning the tube into battery without displacing the carriage, and is designed and safe for use only with black powder;
4. Black powder, priming quills, and percussion caps possessed and lawfully used to fire a cannon of a type defined in item (3), above, during displays, celebrations, organized matches or shoots, and target practice, and smokeless and black powder, primers, and percussion caps possessed and lawfully used as a propellant or ignition device in small-arms or small-arms ammunition;
5. Dangerous ordnance that is inoperable or inert and cannot readily be rendered operable or activated, and that is kept as a trophy, souvenir, curio, or museum piece;
6. Any device that is expressly excepted from the definition of a destructive device pursuant to the “Gun Control Act of 1968,” 18 U.S.C. 921(a)(4), as amended, and regulations issued under that act;

⁶ R.C. 2923.11(L).

7. Any firearm with an overall length of at least 26 inches that is approved for sale by BATFE under the “Gun Control Act of 1968,” 18 U.S.C. 921(a)(3), but that is found by BATFE not to be regulated under the “National Firearms Act,” 26 U.S.C. 5845(a).

HISTORY

Action	Date
Introduced	02-19-19
Reported, H. Federalism	02-21-19
Passed House (76-20)	02-27-19
Reported, S. Government Oversight & Reform	03-06-19
Passed Senate (23-9)	03-06-19
