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S.B. 215
134th General Assembly

Bill Analysis

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Version: As Passed by the Senate

Primary Sponsor: Sen. Johnson

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REVISED VERSION

SUMMARY

- Provides that a person who is a “qualifying adult” is not required to obtain a concealed handgun license in order to carry a concealed handgun that is not a “restricted firearm.”
- Defines “qualifying adult” as a person who is 21 years of age or older and who is not legally prohibited from possessing or receiving a firearm under specified federal or state law.
- Defines “restricted firearm” as a firearm that is a dangerous ordnance or that is a firearm that any law of this state prohibits the person from possessing, having, or carrying.
- States that specified references to a concealed handgun licensee apply to a qualifying adult, unless the context clearly indicates otherwise.
- States that expiration, suspension, and revocation references to a concealed handgun license do not apply to a qualifying adult, unless the person has been issued a concealed handgun license.
- Eliminates the requirement that a concealed handgun licensee must carry a concealed handgun license in order to carry a concealed handgun.
- Modifies the duty to notify by providing that a concealed handgun licensee or active duty military member, before or at the time a law enforcement officer or motor carrier enforcement unit employee asks if the person is carrying a concealed handgun, must disclose that the person is carrying a handgun, unless the person has already notified another law enforcement officer or motor carrier enforcement unit employee of that fact.
- Permits expungement of convictions based on failure to comply with the notification requirements described in the preceding dot point.

- Specifies that the mere carrying or possession of a handgun that is not a restricted firearm does not constitute grounds for any law enforcement officer or agent of the state, a county, a municipal corporation, or a township to conduct any search, seizure, or detention, no matter how temporarily, of an otherwise law-abiding person.

DETAILED ANALYSIS

Eliminates requirement that a concealed handgun license must be obtained

The bill provides that a person who is a “qualifying adult” is not required to obtain a concealed handgun license in order to carry a concealed handgun that is not a “restricted firearm.” Regardless of whether the person has been issued a concealed handgun license, a person who is a qualifying adult may carry a concealed handgun that is not a restricted firearm anywhere in this state in which a person who has been issued a concealed handgun license may carry a concealed handgun. The right of a person who is a qualifying adult to carry a concealed handgun that is not a restricted firearm is that same right as granted to a person who has been issued a concealed handgun license, and a qualifying adult who is granted the right is subject to the same restrictions as apply to a person who has been issued a concealed handgun license.¹

If a person is a qualifying adult, and the person thereafter comes within any category of persons prohibited from possessing or receiving a firearm under specified federal or state law, both of the following apply automatically and immediately upon the person coming within that category:²

1. The above provisions do not apply to the person.
2. The below provisions (see, “**References to concealed handgun license and concealed handgun licensee,**”) do not apply to the person.

As a result of the bill’s expansion of the right to carry a concealed handgun to any qualifying adult without a requirement to obtain a concealed handgun license, it appears that the bill might allow some individuals who are ineligible for a concealed handgun license to now carry a concealed handgun without a license.³

References to concealed handgun license and concealed handgun licensee

The bill specifies that for purposes of any section of the Revised Code that refers to a concealed handgun license or concealed handgun licensee, except when the context clearly indicates otherwise, all of the following apply:⁴

¹ R.C. 2923.111(B).

² R.C. 2923.111(D)(2) and 18 U.S.C. 922(g)(1) to (9), not in the bill.

³ R.C. 2923.125(D)(1), 2923.13(A), and 18 United States Code (U.S.C.) 922(g).

⁴ R.C. 2923.111(D)(1).

1. A person who is a qualifying adult and is carrying or has, concealed on the person's person or ready at hand, a handgun that is not a restricted firearm must be deemed to have been issued a valid concealed handgun license.
2. If the provision refers to a person having been issued a concealed handgun license or having been issued a concealed handgun license that is valid at a particular point in time, the provision must be construed as automatically including a person who is a qualifying adult and who is carrying or has, concealed on the person's person or ready at hand, a handgun that is not a restricted firearm, as if the person had been issued a concealed handgun license or had been issued a concealed handgun license that is valid at the particular point in time.
3. If the provision in specified circumstances requires a concealed handgun license to engage in specified conduct, or prohibits a concealed handgun licensee from engaging in specified conduct, the provision must be construed as applying in the same circumstances to a person who is a qualifying adult in the same manner as if the person was a concealed handgun licensee.
4. If the application of the provision to a person depends on whether the person is or is not a concealed handgun licensee, the provision must be applied to a person who is a qualifying adult in the same manner as if the person was a concealed handgun licensee.
5. If the provision pertains to the imposition of a penalty or sanction for specified conduct and the penalty or sanction applicable to a person who engages in the conduct depends on whether the person is or is not a concealed handgun licensee, the provision must be applied to a person who is a qualifying adult in the same manner as if the person was a concealed handgun licensee.

References to expiration, suspension, and revocation of concealed handgun license

The bill provides that the concealed handgun license expiration provisions and the concealed handgun license suspension and revocation provisions do not apply with respect to a person who is a qualifying adult, unless the person has been issued a concealed handgun license.⁵

Definitions

The bill uses the following definitions:

“Qualifying adult” means a person who is 21 years of age or older and who is not legally prohibited from possessing or receiving a firearm under specified federal or state law.⁶

⁵ R.C. 2923.111(D)(2).

⁶ R.C. 2923.111(A)(2) and 18 U.S.C. 922(g)(1) to (9), not in the bill.

“Restricted firearm” means a firearm that is a dangerous ordnance or that is a firearm that any law of this state prohibits the subject person from possessing, carrying, or having.⁷

Eliminates requirement that a concealed handgun licensee must carry a concealed handgun license

The bill eliminates the requirement that a concealed handgun licensee must carry a concealed handgun license in order to carry a concealed handgun. Under the bill, a concealed handgun licensee may carry a concealed handgun anywhere in the state if the concealed handgun license is valid when the licensee is in actual possession of a concealed handgun. Under current law, a concealed handgun licensee may carry a concealed handgun anywhere in this state if the licensee also carries a valid concealed handgun license when the licensee is in actual possession of the concealed handgun.⁸

Modifies requirement that a concealed handgun licensee has a duty to notify

Duty to notify

The bill modifies the requirement that a concealed handgun licensee or qualified military member has a duty to notify. Under the bill, a concealed handgun licensee or qualified military member has a duty to notify as follows:

1. If a concealed handgun licensee is stopped for a law enforcement purpose and is carrying a concealed handgun, before or at the time a law enforcement officer asks if the person is carrying a concealed handgun, the person must not fail to disclose that the person is then carrying a concealed handgun, provided that it is not a violation if the person fails to disclose that fact to an officer during the stop and the person already has notified another officer of that fact during the same stop.⁹
2. If a concealed handgun licensee or active duty military member is the driver or occupant of a motor vehicle that is stopped for a law enforcement purpose and is transporting or has a loaded handgun in the motor vehicle, before or at the time a law enforcement officer asks if the person is carrying a concealed handgun, the person must not fail to disclose that the person then possesses or has a loaded handgun in the motor vehicle, provided that it is not a violation if the person fails to disclose that fact to an officer during the stop and the person already has notified another officer of that fact during the same stop.¹⁰

⁷ R.C. 2923.111(A)(1).

⁸ R.C. 1547.69(H)(2), 2923.12(C)(2) and (F)(2), 2923.121(B)(1)(d) and (e), 2923.122(D)(3) and (4), 2923.123(C)(6), 2923.126(A)(1), (D), and (F)(1), and 2923.16(F)(5) and (L).

⁹ R.C. 2923.12(B)(1).

¹⁰ R.C. 2923.16(E)(1).

3. If a concealed handgun licensee or active duty military member is the driver or occupant of a commercial motor vehicle that is stopped for a specified purpose and is transporting or has a loaded handgun in the commercial motor vehicle, before or at the time a law enforcement officer asks if the person is carrying a concealed handgun, the person must not fail to disclose that the person then possesses or has a loaded handgun in the commercial motor vehicle, provided that it is not a violation if the person fails to disclose that fact to an officer during the stop and the person already has notified another officer of that fact during the same stop.¹¹

Under current law, a concealed handgun licensee or qualified military member has a duty to notify as follows:

1. If a concealed handgun licensee is stopped for a law enforcement purpose and is carrying a concealed handgun, the person must not fail to promptly inform any law enforcement officer who approaches the person after the person has been stopped that the person has been issued a concealed handgun license and that the person is then carrying a concealed handgun.¹²
2. If a concealed handgun licensee or active duty military member is the driver or occupant of a motor vehicle that is stopped for a law enforcement purpose and is transporting or has a loaded handgun in the motor vehicle, the person must not fail to promptly inform any law enforcement officer who approaches the person after the person has been stopped that the person has been issued a concealed handgun license or is authorized to carry a concealed handgun as a qualified military member and that the person then possesses or has a loaded handgun in the motor vehicle.¹³
3. If a concealed handgun licensee or active duty military member is the driver or occupant of a commercial motor vehicle that is stopped for a specified purpose and is transporting or has a loaded handgun in the commercial motor vehicle, the person must not fail to promptly inform any employee of the unit who approaches the person after the person has been stopped that the person has been issued a concealed handgun license or is authorized to carry a concealed handgun as a qualified military member and that the person then possesses or has a loaded handgun in the commercial motor vehicle.¹⁴

The bill retains the duty to notify provisions above and other law enforcement duties not amended by the bill, but eliminates substantially equivalent language found elsewhere in the Revised Code.¹⁵

¹¹ R.C. 2923.16(E)(2).

¹² R.C. 2923.12(B)(1) and 2923.126(A).

¹³ R.C. 2923.126(A) and 2923.16(E)(1).

¹⁴ R.C. 2923.126(A) and 2923.16(E)(1).

¹⁵ R.C. 2923.126(A).

Penalties

The bill also modifies the criminal penalties associated with failure to follow the notification requirements. Under the bill, a violation of the notification requirements is a second degree misdemeanor. Under current law, a violation of the notification requirements is generally a first degree misdemeanor and results in suspension of the licensee's concealed handgun license, unless the law enforcement officer had actual knowledge that the person was a licensee, in which case the violation is a minor misdemeanor and the license is not suspended.¹⁶

Expungement

Under the bill, a person who has been convicted of or pleaded guilty to a violation of the notification requirements as they existed prior to the bill's effective date may request that records related to that conviction be expunged. Under continuing law, the person seeking expungement must apply to the sentencing court for the expungement of the record of conviction.¹⁷

Search, seizure, or detention of person carrying a handgun

The bill specifies that the mere carrying or possession of a handgun that is not a restricted firearm, with or without a concealed handgun license, does not constitute grounds for any law enforcement officer or agent of the state, a county, a municipal corporation, or a township to conduct any search, seizure, or detention, no matter how temporarily, of an otherwise law-abiding person.¹⁸

HISTORY

Action	Date
Introduced	08-05-21
Reported, S. Veterans & Public Safety	12-15-21
Passed Senate (23-8)	12-15-21

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¹⁶ R.C. 2923.12(F)(3), 2923.128, and 2923.16(I).

¹⁷ R.C. 2923.12(E)(2), 2923.16(H)(2), and 2953.37.

¹⁸ R.C. 2923.111(C).