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Final Analysis

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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, is not legally prohibited from possessing or receiving a firearm under specified federal or state law, and satisfies specified criteria necessary to obtain a concealed handgun license.
- Defines “restricted firearm” as a firearm that is dangerous ordnance or that is a firearm that any law of this state prohibits the person from possessing, having, or carrying.
- States that references to a concealed handgun and a concealed handgun licensee apply to a qualifying adult, unless the context clearly indicates otherwise.
- States that references to the expiration, suspension, and revocation of 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, before or at the time a law enforcement officer asks if a person is carrying a concealed handgun, the person must disclose that the person is carrying a handgun, unless the person has already notified another law enforcement officer of that fact.
- Modifies the penalty for failure to comply with the duty to notify to a second degree misdemeanor.
- Permits expungement of convictions based on failure to comply with the duty to notify.

DETAILED ANALYSIS

Eliminates requirement that a concealed handgun license must be obtained

The act 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

The act specifies that 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: (1) the person no longer has a right to carry a concealed handgun as described above, and (2) the references to a concealed handgun license and a concealed handgun licensee described below no longer apply to the person.²

References to concealed handgun license and concealed handgun licensee

The act 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:³

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

¹ R.C. 2923.111(B).

² R.C. 2923.111(C)(2) and 2923.13 and 18 United States Code 922(g)(1) to (9).

³ R.C. 2923.111(C)(1).

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 act provides that the concealed handgun license expiration, 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.⁴

Definitions

The act uses the following definitions:

“Qualifying adult” means a person who is all of the following:⁵

- A person who is 21 years of age or older;
- A person who is not legally prohibited from possessing or receiving a firearm under specified federal or state law;
- A person who satisfies the following specified criteria necessary to obtain a concealed handgun license:⁶
 - A person who is legally living in the United States;
 - A person who is at least 21 years of age;
 - A person who is not a fugitive from justice;

⁴ R.C. 2923.111(C)(2).

⁵ R.C. 2923.111(A)(2) and R.C. 2923.125(D)(1)(a) to (j), (m), (p), (q), and (s), not in the act.

⁶ A “qualifying adult” does not have to satisfy the following specified criteria necessary to obtain a concealed handgun license: (1) a person who certifies that the person desires a legal means to carry a concealed handgun for defense of the person or a member of the person’s family while engaged in lawful activity, (2) a person who submits a competency certification and a certification that the person has read a specified pamphlet, (3) if a person resides in another state, the person is employed in this state, (4) a person who certifies that the person is not an unlawful user of or addicted to any controlled substance, and (5) a person who certifies that the person has not renounced the person’s United States citizenship, if applicable (R.C. 2923.125(D)(1)(k), (l), (n), (o), and (r), not in the act).

- A person who is not under indictment for or otherwise charged with a felony; an offense under R.C. Chapter 2925, 3719, or 4729 that involves the illegal possession, use, sale, administration, or distribution of or trafficking in a drug of abuse; a misdemeanor offense of violence; or a violation of negligent assault, falsification of a concealed handgun license, or possessing a revoked or suspended concealed handgun license;
- Unless sealed, expunged, relieved from disability under operation of law or legal process, or a minor misdemeanor, a person who has not been convicted of or pleaded guilty to a felony or an offense under R.C. Chapter 2925, 3719, or 4729 that involves the illegal possession, use, sale, administration, or distribution of or trafficking in a drug of abuse; has not been adjudicated a delinquent child for committing an act that if committed by an adult would be a felony or would be an offense under R.C. Chapter 2925, 3719, or 4729 that involves the illegal possession, use, sale, administration, or distribution of or trafficking in a drug of abuse; has not been convicted of, pleaded guilty to, or adjudicated a delinquent child for committing a violation of assault when the victim of the violation is a peace officer, regardless of whether the person was sentenced under R.C. 2903.13(C)(4) (a penalty enhancement for assault, from a first degree misdemeanor to a fourth degree felony, when the victim is a peace officer, BCII investigator, firefighter, or EMS provider and the assault occurs while they are in the performance of their official duties); and has not been convicted of, pleaded guilty to, or adjudicated a delinquent child for committing any other offense that is not previously described that is a misdemeanor punishable by imprisonment for a term exceeding one year;
- Unless sealed, expunged, relieved from disability under operation of law or legal process, or a minor misdemeanor, a person who, within the past three years, has not been convicted of or pleaded guilty to a misdemeanor offense of violence other than a misdemeanor violation of resisting arrest or a violation of assault when the victim of the violation is a peace officer, or a misdemeanor violation of possessing a revoked or suspended concealed handgun license; and has not been adjudicated a delinquent child for committing an act that if committed by an adult would be a misdemeanor offense of violence other than a misdemeanor violation of resisting arrest or a violation of assault when the victim of the violation is a peace officer or for committing an act that if committed by an adult would be a misdemeanor violation of possessing a revoked or suspended concealed handgun license;
- Except as provided in the second preceding dot point, a person who, within the past five years, has not been convicted of, pleaded guilty to, or adjudicated a delinquent child for committing two or more violations of assault or negligent assault;
- Unless sealed, expunged, relieved from disability under operation of law or legal process, or a minor misdemeanor, a person who, within the past ten years, has not been convicted of, pleaded guilty to, or adjudicated a delinquent child for committing a violation of resisting arrest;
- A person who has not been adjudicated as a mental defective, has not been committed to any mental institution, is not under adjudication of mental

- incompetence, has not been found by a court to be a mentally ill person subject to court order, and is not an involuntary patient other than one who is a patient only for purposes of observation;
- A person who is not currently subject to a civil protection order, a temporary protection order, or a protection order issued by a court of another state;
 - A person who currently is not subject to a suspension of a concealed handgun license or a temporary emergency license under certain circumstances or a similar suspension imposed by another state regarding a concealed handgun license issued by that state;
 - If the person is not a United States citizen, a person who is an alien and has not been admitted to the United States under a nonimmigrant visa;
 - A person who has not been discharged from the armed forces of the United States under dishonorable conditions;
 - A person who has not been convicted of, pleaded guilty to, or adjudicated a delinquent child for committing a violation of domestic violence or a similar violation in another state.

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

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

The act eliminates the requirement that a concealed handgun licensee must carry a concealed handgun license in order to carry a concealed handgun. Under the act, 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 prior law, a concealed handgun licensee was required to carry a valid concealed handgun license when the licensee was in actual possession of a concealed handgun.⁸

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

Duty to notify

The act modifies the requirement that a concealed handgun licensee, qualified military member, or qualifying adult has a duty to notify. (Although not explicitly mentioned in the language of the statutes describing the duty to notify, qualifying adults are also subject to this duty – see “**References to concealed handgun license and concealed handgun licensee,**” above.) Under the act, a concealed handgun licensee, qualified military member, or qualifying adult has a duty to notify as follows:

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), (D), and (F)(1), and 2923.16(F)(5) and (L).

1. If the person 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 the person 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
3. If the person 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 former 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

⁹ R.C. 2923.12(B)(1).

¹⁰ R.C. 2923.16(E)(1).

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).

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

Penalties

The act modifies the penalty for failure to comply with the duty to notify. Under the act, failure to comply with the duty to notify is a second degree misdemeanor. Under former law, failure to comply with the duty to notify 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 act, a person who has been convicted of or pleaded guilty to failure to comply with the duty to notify as it existed prior to the act's June 13, 2022, 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

HISTORY

Action	Date
Introduced	08-05-21
Reported, S. Veterans & Public Safety	12-15-21
Passed Senate (23-8)	12-15-21
Reported, H. Government Oversight	03-02-22
Passed House (58-36)	03-02-22
Senate concurred in House amendments (24-9)	03-02-22

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¹⁴ R.C. 2923.126(A) and 2923.16(E)(2).

¹⁵ R.C. 2923.126(A).

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.