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S.B. 32*
135th General Assembly

Bill Analysis

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Version: As Reported by Senate Judiciary

Primary Sponsor: Sen. Schaffer

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SUMMARY

- Specifies that the immunities currently provided for nonprofit corporations for any of the following also apply to a for-profit corporation that leases its property to the nonprofit corporation or permits its property to be used by the nonprofit corporation for any purpose:
 - Injury, death, or loss to person or property allegedly caused by or related to a concealed handgun licensee bringing a handgun onto the premises or to an event of the nonprofit corporation;
 - Injury, death, or loss to person or property allegedly caused by or related to a decision to permit a licensee to bring, or prohibit a licensee from bringing, a handgun onto the premises or to an event of the nonprofit corporation.
- Generally grants civil immunity to a person for certain injuries allegedly caused by the person acting in self-defense or defense of another during the commission, or imminent commission, of an offense of violence to protect the members or guests of a nonprofit corporation under certain circumstances.
- Specifies that a person who approaches or enters a nonprofit corporation's premises or event with intent to commit an offense of violence is presumed liable for any injury, death, or loss to person or property resulting from an act of self-defense or defense of another against that person.

* This analysis was prepared before the report of the Senate Judiciary Committee appeared in the Senate Journal. Note that the legislative history may be incomplete.

DETAILED ANALYSIS

Background

Existing law, unchanged by the bill, provides that, subject to specified exceptions, a concealed handgun licensee may carry a concealed handgun anywhere in Ohio if the licensee also carries a valid license when in actual possession of a concealed handgun. The exceptions are: (1) in any of nine specified categories of places (e.g., in specified circumstances, in a law enforcement station, school safety zone, courthouse, D liquor permit premises, institution of higher education, place of worship, government facility, or place prohibited under federal law), (2) in a manner prohibited under the offense of “carrying concealed weapons” or “improperly handling firearms in a motor vehicle,” (3) in violation of a private employer’s rule, policy, or practice concerning or prohibiting the presence of firearms on the employer’s premises or property, in specified circumstances, or (4) in violation of a sign properly posted by the owner or person in control of private land or premises, or by the private person or entity lessee on government land or premises, that prohibits persons from carrying firearms or concealed firearms on the land or premises.¹ An armed forces active duty member carrying specified types of documentation has the same right to carry a concealed handgun in Ohio as a concealed handgun licensee and is subject to the same restrictions.²

Existing law provides immunity from civil liability for certain entities for injury, death, or loss to person or property allegedly caused by or related to a concealed handgun licensee bringing a handgun onto the entity’s premises or property. The entities for which this immunity is provided are private employers, political subdivisions, institutions of higher education, and nonprofit corporations – the immunity also applies with respect to events organized by such corporations but it does not apply for those employers, institutions, and corporations that acted with malicious purpose. Private employers, institutions of higher education, and nonprofit corporations also are provided immunity for injury, death, or loss to person or property allegedly caused by or related to the employer’s, institution’s, or corporation’s decision to permit a licensee to bring a handgun onto the premises or property of the private employer – the immunity for private employers also expressly extends to a decision to prohibit a licensee from bringing a handgun onto the premises or property.³

Operation of the bill

Immunity extended to for-profit corporation

The bill specifies that the immunities currently provided for nonprofit corporations, as described above in “**Background**,” also apply to any for-profit corporation that leases its property to the nonprofit corporation or permits its property to be used by the nonprofit

¹ R.C. 2923.126(A) to (C).

² R.C. 2923.126(D)(2).

³ R.C. 2923.126(C)(2).

corporation for any purpose. The immunities are from civil liability for injury, death, or loss to person or property allegedly caused by or related to: (1) a concealed handgun licensee bringing a handgun onto the premises or to an event of the nonprofit corporation, unless the nonprofit corporation acted with malicious purpose, or (2) a decision to permit a licensee to bring a handgun onto the premises or to an event of the nonprofit corporation (see **COMMENT**).⁴

Immunity provided for persons

The bill enacts a new immunity provision that specifies that no person is liable in a “tort action” (see below) for injury, death, or loss to person or property allegedly caused by the person’s act of self-defense or defense of another when performed during the commission, or imminent commission, of an “offense of violence” (a defined term⁵) to protect the members or guests, including the person’s self, of a nonprofit corporation under the existing immunity provisions for a nonprofit corporation as described above in “**Background**,” against the commission, or imminent commission, of that offense of violence, unless the person’s act constitutes willful or wanton misconduct.⁶ As used in this provision, “tort action” means a civil action for damages for injury, death, or loss to person or property other than a civil action for damages for a breach of contract or another agreement between persons; “tort action” includes, but is not limited to, a product liability claim, an asbestos claim, an action for wrongful death, and an action based on derivative claims for relief.⁷

Additionally, the bill creates a presumption that a person who approaches or enters a nonprofit corporation’s premises or event with intent to commit an offense of violence is liable for any injury, death, or loss to person or property resulting from an act of self-defense or defense of another against that person, unless the person’s defensive action constitutes willful or wanton misconduct.⁸

The bill specifies that nothing in this provision may be construed to affect any rights to bring a civil action under the provision of existing law that pertains to the bringing of a civil action by a person injured by a criminal act (see below) or any other R.C. section and that the provision does not affect, and may not be construed as affecting, any immunities from civil liability or defenses established by another R.C. section or available at common law, to which the person may be entitled under circumstances not covered by that division.⁹

The provision of existing law referred to in the bill that pertains to the bringing of a civil action by a person injured by a criminal act, unchanged by the bill, specifies that, subject to a few specified exceptions, anyone injured in person or property by a criminal act has, and may

⁴ R.C. 2923.126(C)(2)(d).

⁵ R.C. 2901.01, not in the bill.

⁶ R.C. 2307.221(B).

⁷ R.C. 2307.221(A), by reference to R.C. 2307.60, not in the bill.

⁸ R.C. 2307.221(E).

⁹ R.C. 2307.221(C) and (D).

recover full damages in, a civil action unless specifically excepted by law, may recover the costs of maintaining the civil action and attorney’s fees if authorized by any provision of the Rules of Civil Procedure or another R.C. section or under Ohio common law, and may recover punitive or exemplary damages if authorized by any R.C. section.¹⁰

COMMENT

The bill does not expressly state whether the immunity described in clause (1) under **“Immunity extended to for-profit corporation”** would, or would not, apply to the involved for-profit corporation if the nonprofit corporation acts with malicious purpose, or whether the immunity described in clause (2) under that part of the analysis would, or would not, apply to either involved corporation if the involved for-profit corporation permits that conduct by a licensee, without knowledge of or agreement by the involved nonprofit corporation, while the property is being used by the nonprofit corporation.

HISTORY

Action	Date
Introduced	01-26-23
Reported, S. Judiciary	---

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¹⁰ R.C. 2307.60, not in the bill.