



Ohio Legislative Service Commission

Bill Analysis

Jeff Hobday

Sub. H.B. 48*

131st General Assembly

(As Reported by S. Government Oversight and Reform)

Reps. Maag, Hood, Retherford, Vitale, Brinkman, Becker, Buchy, LaTourette, Hayes, Thompson, Kraus, Amstutz, Antani, Blessing, Boose, Brenner, Burkley, Conditt, Dovilla, Ginter, Green, Grossman, Hackett, Hambley, Henne, Hill, Huffman, T. Johnson, Koehler, Landis, McClain, McColley, Pelanda, Perales, Ruhl, Schaffer, Sears, R. Smith, Sprague, Terhar, Young, Zeltwanger, Rosenberger

BILL SUMMARY

- Provides special penalties for the offense of carrying a concealed handgun involving the unauthorized carrying of a concealed handgun on the premises of an institution of higher education, ranging from a minor misdemeanor to a second degree misdemeanor.
- Modifies the list of places into which a concealed handgun may not be carried by limiting the prohibition to public areas of airports and government facilities with certain security measures in place, and eliminating day-care homes and centers from the list.
- Provides special penalties for violating a posted prohibition against carrying weapons or concealed weapons at a day-care facility.
- Grants immunity to public as well as private institutions of higher education from civil liability allegedly caused by or related to a concealed-carry licensee bringing a handgun onto an institution's premises, unless the institution acted with malicious purpose.

* This analysis was prepared before the report of the Senate Government Oversight and Reform Committee appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

- Modifies the offense of illegal conveyance or possession of a deadly weapon or dangerous ordnance in a school safety zone by changing several of the conditions under which the prohibition does not apply.
- Exempts a person from the prohibition against carrying a concealed handgun in a school safety zone if the person has a concealed carry license, leaves the handgun in a motor vehicle, the handgun does not leave the motor vehicle, and if the person exits the motor vehicle, the person locks the motor vehicle.
- Permits an officer, agent, or employee of a state or federal government, or a law enforcement officer, who is authorized to carry deadly weapons or dangerous ordnance, to carry within a school safety zone, regardless of whether the officer, agent, or employee is acting within the scope of the person's duties.
- Exempts use of an object indistinguishable from a firearm in school safety training from the prohibition against possessing such objects in a school safety zone.
- Permits a sheriff, with the approval of the board of county commissioners, to use the county's portion of concealed handgun license fee revenue for ammunition and firearms to be used by the sheriff and the sheriff's employees.
- Provides that a children's crisis care facility that has as its primary purpose the provision of care to infants who are born drug exposed and that regularly maintains on its premises schedule II controlled substances may maintain firearms at the facility and have security personnel bear firearms while on facility grounds.

CONTENT AND OPERATION

Penalty for carrying concealed weapons

The bill modifies the penalty for carrying a concealed handgun under one specific circumstance. Under the bill, if a person is arrested for carrying a concealed handgun other than a dangerous ordnance and the offender was knowingly on the premises of an institution of higher education and was not authorized to carry a concealed handgun there (see "**Prohibited places**," below), the penalties are as follows:¹

(1) Except as provided below, if the person has not previously been convicted of or pleaded guilty to carrying a concealed handgun and the person produces a valid concealed handgun license within ten days after the arrest, the person is guilty of a minor misdemeanor;

¹ R.C. 2923.12(F)(3).



(2) Except as provided below, if the person has been convicted of or pleaded guilty to carrying a concealed handgun once before, the person is guilty of a fourth degree misdemeanor;

(3) Except as provided below, if the person has twice been convicted of or pleaded guilty to carrying a concealed handgun, the person is guilty of a third degree misdemeanor;

(4) If the person has been convicted of or pleaded guilty to carrying a concealed handgun three or more times, or been convicted of or pleaded guilty to an offense of violence, if the weapon involved is a loaded firearm or the offender had ammunition ready at hand, or if the weapon involved was a dangerous ordnance, the person is guilty of a second degree misdemeanor.

The Revised Code prohibits a person from knowingly carrying or having concealed on the person's person or concealed ready at hand (1) a deadly weapon other than a handgun, (2) a handgun other than a dangerous ordnance, or (3) a dangerous ordnance.² Under continuing law, a violation of any of these prohibitions is a misdemeanor of the first degree. If there are aggravating circumstances, such as a prior conviction for an offense of violence, the offense rises to a felony. The offense is a minor misdemeanor if within ten days of the arrest the offender produces a concealed-carry license that was valid at the time of the arrest and the offender at the time of the arrest was not knowingly in a place where concealed weapons are prohibited regardless of the license. The offense is an unspecified misdemeanor for which a fine of \$500 is imposed if the offender's license expired within two years before the arrest, the offender was not in a prohibited place at the time of the arrest, and within 45 days after the arrest the offender produces a valid license and waives the right to a speedy trial.³

For a first degree misdemeanor the court may sentence an offender to jail for a definite term not exceeding 180 days, a fine of up to \$1,000, or both. For a minor misdemeanor the court may impose a fine of up to \$150 but may not sentence the offender to a jail term.⁴

² R.C. 2923.12(A).

³ R.C. 2923.12(F)(1) and (2).

⁴ R.C. 2929.24, 2929.28, and 2929.26, not in the bill.



Prohibited places

The bill modifies the list of places into which a concealed handgun may not be carried notwithstanding the carrier's possession of a valid concealed handgun license. Under existing law, these places are:⁵

(1) A police station, sheriff's office, or State Highway Patrol station, premises controlled by the bureau of criminal identification and investigation, a state correctional institution, jail, workhouse, or other detention facility, an airport passenger terminal, or a state institution for the mentally ill or retarded;

(2) A school safety zone, unless the person is a law enforcement officer or other person authorized to carry in that location;

(3) A courthouse or another building or structure in which a courtroom is located, unless the person is a law enforcement officer or other person authorized to carry in that location;

(4) Any premises or open air arena for which a D liquor permit has been issued, unless the person is authorized to carry in that location;

(5) Any premises owned or leased by any public or private college, university, or other institution of higher education, unless the handgun is in a locked motor vehicle or the licensee is in the immediate process of placing the handgun in a locked motor vehicle;

(6) Any church, synagogue, mosque, or other place of worship, unless the church, synagogue, mosque, or other place of worship posts or permits otherwise;

(7) A child day-care center, a type A family day-care home, a type B family day-care home, or a type C family day-care home, except that this restriction does not prohibit a licensee who resides in one of these places from carrying a concealed handgun at any time in any part of the home that is not dedicated or used for day-care purposes, or from carrying a concealed handgun in a part of the home that is dedicated or used for day-care purposes at any time during which no children, other than children of that licensee, are in the home;

(8) An aircraft that is in, or intended for operation in, foreign air transportation, interstate air transportation, intrastate air transportation, or the transportation of mail by aircraft;

⁵ R.C. 2923.126(B).



(9) Any building that is a government facility of this state or a political subdivision of this state and that is not a building that is used primarily as a shelter, restroom, parking facility for motor vehicles, or rest facility and is not a courthouse or other building or structure in which a courtroom is located;

(10) A place in which federal law prohibits the carrying of handguns.

The bill eliminates the restrictions described in paragraphs (7) and (8), and modifies the restrictions described in paragraphs (1) and (9). Under the bill, day-care centers and homes are not automatically off limits to carriers of concealed handguns. However, the bill provides special penalties for trespassing on a day-care center or home that has a posted prohibition against carrying weapons or concealed weapons on the premises.

Under the bill, if a person knowingly violates a posted prohibition of firearms on a child day-care center, type A family day-care home, or type B family day-care home, unless the person is a licensee who resides in the family day-care home, the person is guilty of aggravated trespass. At minimum, the offender is guilty of a first degree misdemeanor. If the person previously has been convicted of trespassing on a day-care facility or any offense of violence, if the weapon involved is a loaded firearm or the offender had ammunition ready at hand, or if the weapon involved was a dangerous ordnance, the offender would be guilty of a fourth degree felony.⁶

The bill modifies the restriction on carrying a concealed handgun in a government facility to prohibit carrying in a state or local government facility to which, during the building's normal hours of operation, access is restricted at the main point of entry to the building by the continuous posting of security personnel and the use of security screening measures. Although the bill eliminates the explicit prohibition against carrying concealed handguns on aircraft, it retains "a place in which federal law prohibits the carrying of handguns" as a prohibited place. Federal law prohibits carrying loaded firearms and concealed dangerous weapons on aircraft.⁷ And, instead of prohibiting all firearms in an airport terminal, the bill prohibits carrying a firearm in any area of a passenger terminal that is beyond a passenger or property screening checkpoint or to which access is restricted.

The bill also adds an exception to the prohibition regarding institutions of higher education. The exception allows a licensee to carry a concealed handgun on the premises of an institution of higher education pursuant to a written policy, rule, or

⁶ R.C. 2923.126(C)(3)(a).

⁷ 46 U.S.C. § 46505.



other authorization that is adopted by the institution's board of trustees or other governing body and that authorizes specific individuals or classes of individuals to carry a concealed handgun on the premises. The "governing body" may be a board of trustees, board of directors, commission, or other body vested by law with the general management, conduct, and control of one or more institutions of higher education.⁸

Under existing law, unchanged by the bill, a private employer other than an institution of higher education may adopt a policy banning firearms on its premises.⁹ Current law also provides a private employer with immunity from civil liability for any injury, death, or loss to person or property that allegedly was caused by or related to (1) a licensee bringing a handgun onto the employer's premises or property, including motor vehicles, unless the private employer acted with malicious purpose or (2) the private employer's decision to permit a licensee to bring, or prohibit a licensee from bringing, a handgun onto the employer's premises or property.¹⁰

Current law expressly includes a private institution of higher education within the term "private employer" as used in the immunity provision. The bill eliminates this inclusion and creates a new immunity provision that is practically identical to the existing provision but that applies to institutions of higher education generally, not just private institutions.¹¹ (See **COMMENT.**)

Illegal conveyance or possession in a school safety zone

The bill modifies the offense of illegal conveyance or possession of a deadly weapon or dangerous ordnance in a school safety zone. Existing law prohibits a person from knowingly doing any of the following:¹²

- Conveying or attempting to convey a deadly weapon or dangerous ordnance into a school safety zone;
- Possessing a deadly weapon or dangerous ordnance in a school safety zone;
- Possessing an object in a school safety zone if (1) the object is indistinguishable from a firearm, whether or not the object is capable of

⁸ R.C. 2923.126(G)(4), by reference to R.C. 154.01.

⁹ R.C. 2923.126(C)(1).

¹⁰ R.C. 2923.126(C)(2)(a).

¹¹ R.C. 2923.126(C)(2)(a) and (c).

¹² R.C. 2823.122(A), (B), and (C).



being fired, and (2) the person indicates that the person possesses the object and that it is a firearm or the person knowingly displays or brandishes the object and indicates that it is a firearm.

The prohibitions do not apply to a person who conveys or attempts to convey a handgun into, or possesses a handgun in, a school safety zone if, at the time of the conveyance, attempted conveyance, or possession, all of the following apply:¹³

(1) The person does not enter into a school building or onto school premises and is not at a school activity.

(2) The person is carrying a valid concealed handgun license.

(3) The person is in the school safety zone in accordance with federal law governing the possession of firearms in school zones.

(4) The person *is not knowingly in a prohibited place* other than a school safety zone.

By modifying the list of prohibited places, the bill modifies the offense of illegal conveyance or possession of a deadly weapon or dangerous ordnance in a school safety zone.

Under current law, the prohibitions also do not apply to a person who conveys or attempts to convey a handgun into, or possesses a handgun in, a school safety zone if, at the time of the conveyance, attempted conveyance, or possession, all of the following apply:¹⁴

(1) The person is carrying a valid concealed handgun license.

(2) The person is the driver or passenger in a motor vehicle and is in the school safety zone while immediately in the process of picking up or dropping off a child.

(3) The person is not in violation of the law against improperly handling firearms in a motor vehicle.

The bill eliminates the requirements that the person be immediately in the process of picking up or dropping off a child and that the person must not be in violation of the law against improperly handling firearms in a motor vehicle and

¹³ R.C. 2923.122(D)(3).

¹⁴ R.C. 2923.122(D)(4).

instead specifies that the prohibitions do not apply to a person if all of the following apply:¹⁵

- The person is carrying a valid concealed handgun license.
- The person leaves the handgun in the motor vehicle.
- The handgun does not leave the motor vehicle.
- If the person exits the motor vehicle, the person locks the motor vehicle.

The bill provides that the prohibition against possession of an object indistinguishable from a firearm in a school safety zone does not apply when the object is used in school safety training. Existing law exempts from the prohibition any school administrator, teacher, or employee who possesses an object that is indistinguishable from a firearm for legitimate school purposes during the course of employment, a student acting under the direction of a school administrator, teacher, or employee, or any other person who with the express prior approval of a school administrator possesses an object that is indistinguishable from a firearm for a legitimate purpose, including the use of the object in a ceremonial activity, dramatic presentation, or a ROTC activity or another similar use of the object.¹⁶

Under the bill, the prohibition against deadly weapons in school safety zones does not apply to 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 deadly weapons or dangerous ordnance, regardless of whether the officer, agent, or employee is acting within the scope of the person's duties.¹⁷

Concealed handgun license fee revenue

The bill permits a sheriff, with the approval of the board of county commissioners, to use the county's portion of concealed handgun license fee revenue for ammunition and firearms to be used by the sheriff and the sheriff's employees.¹⁸ Under current law, the county portion of those fees may be used for any costs incurred by the sheriff in connection with performing any administrative functions related to the issuance of concealed handgun licenses, including costs associated with a firearm safety

¹⁵ R.C. 2923.122(D)(4).

¹⁶ R.C. 2923.122(D)(2).

¹⁷ R.C. 2923.122(D)(1)(a).

¹⁸ R.C. 311.42.



education program or a firearm training or qualification program. The bill retains the current use of those fees and also allows them to be used for ammunition and firearms.

Certified children's crisis care facility

The bill provides that a children's crisis care facility that has as its primary purpose the provision of residential and other care to infants who are born drug-exposed and that regularly maintains on its premises schedule II controlled substances may maintain firearms at the facility. The bill also permits security personnel to bear firearms while on facility grounds.¹⁹

COMMENT

The bill's new immunity provision for institutions of higher education, R.C. 2923.126(C)(2)(c) is modeled on existing R.C. 2923.126(C)(2)(a). However, the current provision refers to the employer's "premises or property of the private employer, including motor vehicles" and then again to "premises or property," whereas the new one refers to "premises of the institution, including motor vehicles" and then to "premises." The words "or property" probably should be inserted into the new provision.

HISTORY

ACTION	DATE
Introduced	02-10-15
Reported, H. Gov't Accountability & Oversight	02-18-15
Re-referred, H. Rules & Reference	02-19-15
Reported, H. State Government	06-17-15
Passed House (68-29)	11-17-15
Reported, S. Gov't Oversight and Reform	---

H0048-RS-131.docx/emr

¹⁹ R.C. 5103.132.

