



OHIO LEGISLATIVE SERVICE COMMISSION

Final Analysis

Jeff Hobday and Nicholas A. Keller

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Sens. Uecker and Gardner, Coley, Bacon, Obhof, Eklund, Beagle, Burke, Faber, Hackett, Hite, Hottinger, Hughes, Jones, Jordan, LaRose, Manning, Oelslager, Patton, Seitz

Reps. Perales, Amstutz, Anielski, Antani, Becker, Blessing, Brenner, Burkley, Cera, Conditt, Dean, Dovilla, Ginter, Goodman, Hagan, Hambley, Henne, Hill, Huffman, Koehler, Landis, LaTourette, Maag, Manning, McColley, Merrin, S. O'Brien, Retherford, Rezabek, Ruhl, Schaffer, R. Smith, Sprague, Terhar, Thompson, Young, Rosenberger

Effective date: March 21, 2017

ACT SUMMARY

Concealed carry law applicable to active duty military members

- Specifies that an active duty member of the U.S. armed forces who is carrying valid military identification and documentation of successful completion of sufficient firearms training has the same right to carry a concealed handgun as a concealed handgun licensee and is subject to the same restrictions as apply to a licensee.
- Expands to qualifying members of the military exemptions to offenses related to possessing a firearm in a vessel, D-liquor permit premises, a school safety zone, a courthouse, or a motor vehicle, and to carrying a concealed weapon that formerly applied only to concealed handgun licensees.
- Specifies penalties that apply to a qualifying member of the military who cannot promptly produce the required documents demonstrating the person's authority to carry a concealed handgun.
- Requires a qualifying member of the military who has a loaded handgun in a motor vehicle and is approached by a law enforcement officer or a Motor Carrier Enforcement Unit employee to notify the officer or employee of the concealed handgun, and follow certain other requirements, and specifies associated penalties.

- Specifies that prohibitions against selling a firearm to a person under age 18 or selling a handgun to a person under age 21 do not apply to the sale or furnishing of a handgun to a qualifying member of the military.
- Directs the Attorney General to create and maintain a section on its website that provides information on state firearms laws applicable to military members.

Places where carrying a concealed handgun is restricted

Institutions of higher education

- Permits a concealed handgun licensee to carry on the premises of an institution of higher education if the institution's board of trustees or other governing body authorizes it.
- Sets special penalties for the offense of carrying a concealed handgun when it involves 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.
- Grants institutions of higher education immunity 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.

Day-care centers

- Removes day-care centers and homes from the list of places into which a concealed handgun may not be carried.
- Creates special penalties for violating a posted prohibition against carrying weapons or concealed weapons at a day-care facility.

Government facilities and airports

- Modifies the prohibition against carrying a concealed handgun in a government facility to allow the governing body with authority over the building to enact a statute, ordinance, or policy that permits a licensee to carry a concealed handgun into the building.
- Limits the prohibition against carrying a concealed handgun in an airport to the area of a passenger terminal that is beyond a passenger or property screening checkpoint or to which access is restricted by security measures.



School safety zones

- Exempts a person from the prohibition against carrying a concealed handgun in a school safety zone if the person has a concealed handgun license or is a qualifying military member, leaves the handgun in the motor vehicle, and if the person exits the motor vehicle, locks the motor vehicle.
- Permits 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 is acting within the scope of the officer'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.

Transporting or storing a firearm or ammunition on private property

- Prohibits a business entity, property owner, or employer from establishing, maintaining, or enforcing a policy that prohibits a concealed handgun licensee from transporting or storing a firearm or ammunition in the person's privately owned motor vehicle under specified circumstances.
- Provides immunity for a business entity, property owner, or employer in a lawsuit for injury or death caused by another person's actions involving a firearm or ammunition transported or stored in the person's motor vehicle, unless the business or person intentionally solicited or procured the other person's injurious actions.

Additional changes to firearms law

- 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.
- Allows certain children's crisis care facilities to maintain firearms at the facility and have security personnel bear firearms while on facility grounds.

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CONTENT AND OPERATION

Background

Continuing law provides for the issuance of concealed handgun licenses and temporary emergency concealed handgun licenses to persons who apply for the license and satisfy eligibility criteria. A person who is issued a concealed handgun license is authorized to carry a concealed handgun under specified circumstances.¹

Active duty armed forces member with firearms training

The act makes several changes in the Concealed Handgun Law regarding a person who (1) is an active duty member of the U.S. armed forces and (2) is carrying a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the firearms training requirements for concealed handgun licensees (hereafter referred to as a "qualifying member of the military").

For purposes of the act, "active duty" has the same meaning as in federal law. Under federal law, "active duty" means full-time duty in the active military service of the United States. This includes full-time training duty, annual training duty, and attendance, while in the active military service, at a school designated as a service school by law or by the Secretary of the military department concerned. The term "active duty" does not include full-time National Guard duty.²

Same right to carry as a concealed carry licensee

Under the act, a qualifying member of the military has the same right to carry a concealed handgun in Ohio as a concealed handgun licensee. The qualifying member of the military is subject to the same restrictions as apply under the Concealed Handgun Law to a licensee.³ Under continuing law, a licensee issued a concealed handgun license

¹ R.C. 2923.125 and 2923.1213, not in the act, and 2923.126.

² R.C. 2923.11(R) and 10 U.S.C. 101, not in the act.

³ R.C. 2923.126(E)(2).



generally may carry a concealed handgun anywhere in Ohio if the licensee also carries a valid license and valid identification. But a license does not authorize a licensee to carry a concealed handgun in any manner prohibited under the offenses of "carrying concealed weapons" or "improperly handling firearms in a motor vehicle," or into any of a list of prohibited places. The prohibited places, as modified by the act and subject to certain exceptions, are: specified law enforcement premises; a school safety zone, courthouse, or D-liquor permit premises; an institution of higher education; a place of worship; a government facility; and a prohibited place under federal law. A concealed handgun licensee also generally is subject to private employer firearms restrictions or prohibitions and firearms prohibitions posted on private land or on government land leased by a private person or entity.⁴ However, a private employer may be prohibited from prohibiting firearms carried or stored in a motor vehicle onto private lands, as described in detail under "**Transporting or storing a firearm or ammunition on private property**," below.

Expansion of exemptions from certain criminal offenses

The act expands exemptions in certain criminal offenses that apply to a concealed handgun licensee so that the exemptions also apply to a qualifying member of the military. Under the preexisting exemptions, a person does not commit the specified offense if the person is carrying a handgun and a valid concealed handgun license, is not in a prohibited place (see above), and in most cases satisfies one or more other criteria. Under the act, a qualifying member of the military does not commit any of the following offenses by virtue of carrying a concealed handgun:⁵

- (1) Knowingly transporting or having a loaded firearm in a vessel;
- (2) Carrying concealed weapons involving a handgun other than a dangerous ordnance;
- (3) Illegal possession of a firearm in liquor permit premises;
- (4) Illegal conveyance or possession of a deadly weapon or dangerous ordnance in a school safety zone;
- (5) Illegal conveyance of a deadly weapon or dangerous ordnance into a courthouse;
- (6) Illegal possession or control of a deadly weapon or dangerous ordnance in a courthouse;

⁴ R.C. 2923.126(B) and (C).

⁵ R.C. 1547.69(H), 2923.12(C), 2923.121(B), 2923.122(D), 2923.123(C), and 2923.16(F)(5).



(7) Improperly handling firearms in a motor vehicle involving the transportation or possession of a loaded handgun in a motor vehicle.

Expansion of special duties and special penalties

The act expands the following duties and penalties under the Concealed Handgun Law so that they apply to a qualifying member of the military:

(1) Duties imposed upon a licensee who has a loaded handgun in a motor vehicle and is approached by a law enforcement officer or, if the vehicle is a commercial motor vehicle, by a Motor Carrier Enforcement Unit employee for a specified commercial vehicle-related purpose. Under the act, a qualifying member of the military must promptly inform any law enforcement officer or unit employee who approaches the vehicle that the person has been issued a concealed handgun license or is authorized to carry a concealed handgun as an active duty military member and that the person has a loaded handgun in the vehicle. The person must remain in the motor vehicle while stopped and keep the person's hands in plain sight during the traffic stop. The person is prohibited from knowingly contacting the loaded handgun unless the person is doing so in accordance with directions given by the law enforcement officer, and the person must not knowingly disregard or fail to comply with any lawful order of any law enforcement officer given while the motor vehicle is stopped.⁶

(2) Penalties that apply to a licensee who violates any of those special duties listed in (1), above, which range from a minor misdemeanor to a fifth degree felony, and can include the suspension of the person's concealed handgun license.⁷

The act also specifies penalties under the offense of "carrying concealed weapons" that apply to a qualifying military member who cannot promptly produce proof of authorization to carry a concealed firearm. More specifically, an active duty military member is subject to a citation and a civil penalty of \$500 or less if the person is arrested for carrying a concealed handgun, cannot promptly produce a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements for concealed carry licenses, and is not knowingly in a place where carrying a concealed handgun is prohibited. The citation is automatically dismissed and the civil penalty is not assessed if the offender presents the necessary documentation within ten days after receiving the citation and the offender was not knowingly in a place where carrying a concealed handgun is prohibited.⁸

⁶ R.C. 2923.16(E); also see R.C. 2923.126(A), unchanged by the act.

⁷ R.C. 2923.16(I).

⁸ R.C. 2923.12(F)(6).



Improperly furnishing firearms to a minor

The act specifies that the prohibitions against selling a firearm to a person who is under age 18 or selling a handgun to a person who is under age 21 do not apply to the sale or furnishing of a handgun to an active duty member of the U.S. armed forces who has received firearms training that meets or exceeds the training requirements for concealed carry licensees. Continuing law provides an exemption from the prohibitions for a law enforcement officer in specified circumstances, and specifies that a violation of either prohibition is the offense of "improperly furnishing firearms to a minor," a fifth degree felony.⁹

Addition to Attorney General's website

The act directs the Attorney General to create and maintain a section on its website that provides information on state firearms laws specifically applicable to U.S. military members. The act also requires the new section of the website to contain a link to the pamphlet of information on firearms laws created by the Ohio Peace Officer Training Commission pursuant to continuing law.¹⁰

Places where carrying a concealed handgun is restricted

The act 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. The places primarily affected by the act are institutions of higher education, day-care centers, government facilities, and airports. The changes are described in detail below.

Institutions of higher education

The act creates 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 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.¹¹

⁹ R.C. 2923.21.

¹⁰ R.C. 109.731(B)(3).

¹¹ R.C. 2923.126(B)(5) and (G)(4).



Under continuing law, a private employer other than an institution of higher education may adopt a policy banning firearms on its premises.¹² However, the act limits the authority of an employer to restrict firearms kept in private motor vehicles, as explained in "**Transporting or storing a firearm or ammunition on private property**," below. Preexisting 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.¹³

The law formerly expressly included a private institution of higher education within the term "private employer" as used in the immunity provision. The act eliminates this inclusion and creates a new immunity provision that is practically identical to the preexisting provision applicable to private employers (described in the preceding paragraph) but that applies to institutions of higher education generally, not just private institutions.¹⁴ (See **COMMENT 1**.)

Penalties

Under the act, if a person is arrested for carrying a concealed handgun and the offender was knowingly on the premises of an institution of higher education and was not authorized to carry a concealed handgun there, the penalties are as follows:¹⁵

(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;

(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;

¹² R.C. 2923.126(C)(1).

¹³ R.C. 2923.126(C)(2)(a).

¹⁴ R.C. 2923.126(C)(2)(a) and (c).

¹⁵ R.C. 2923.12(F)(7).



(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.

Day-care centers

Under the act, day-care centers and homes are no longer automatically off limits to carriers of concealed handguns. However, the act 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. Continuing law requires the owner, administrator, or operator of a day-care facility to post a sign prohibiting weapons on the premises. (See **COMMENT 2.**)¹⁶

Penalties

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.¹⁷

Government facilities

The act modifies the restriction on carrying a concealed handgun in a government facility. Formerly, carrying a concealed handgun at a state or local government facility was prohibited in all circumstances, unless the building was used primarily as a shelter, restroom, parking facility for motor vehicles, or rest facility. The act preserves the general prohibition, but allows the governing body with authority over a government building to enact a statute, ordinance, or policy that permits a licensee to carry a concealed handgun in the building.¹⁸

¹⁶ Former R.C. 2923.126(B)(7), as it existed before the act, and 2923.1212, not in the act.

¹⁷ R.C. 2923.126(C)(3)(a).

¹⁸ R.C. 2923.126(B)(7).



Airports and aircraft

Instead of prohibiting all firearms in an airport terminal, the act only 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 through security measures.¹⁹ Although the act eliminates the explicit prohibition against carrying concealed handguns on aircraft,²⁰ 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.²¹

Illegal conveyance or possession in a school safety zone

The act modifies the offense of illegal conveyance or possession of a deadly weapon or dangerous ordnance in a school safety zone. Continuing law prohibits a person from knowingly doing any of the following:²²

- 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 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:²³

(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.

¹⁹ R.C. 2923.126(B)(1).

²⁰ Former R.C. 2923.126(B)(8), as it existed before the act.

²¹ 46 U.S.C. § 46505.

²² R.C. 2923.122(A), (B), and (C).

²³ R.C. 2923.122(D)(3).



(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 act modifies the offense of illegal conveyance or possession of a deadly weapon or dangerous ordnance in a school safety zone.

The act modifies an exception to the prohibitions against conveyance and possession of a handgun in a school safety zone that previously applied only to concealed handgun licensees. It 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. Instead, it specifies that the prohibitions do not apply to a person if all of the following apply:²⁴

- The person is carrying a valid concealed handgun license or is a qualifying member of the military.
- 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 act also 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. Continuing law, unchanged by the act, 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.²⁵

Under the act, the prohibition against deadly weapons in school safety zones does not apply to a law enforcement officer who is authorized to carry deadly weapons

²⁴ R.C. 2923.122(D)(4).

²⁵ R.C. 2923.122(D)(2).



or dangerous ordnance, regardless of whether the officer is acting within the scope of the officer's duties.²⁶

Transporting or storing a firearm or ammunition on private property

Under the act, no business entity, property owner, or public or private employer may establish, maintain, or enforce a policy or rule that prohibits or has the effect of prohibiting a valid concealed handgun licensee from transporting or storing a firearm or ammunition inside the person's privately owned motor vehicle while the person is present, or in the trunk, glove box, or other enclosed compartment or container in or on the motor vehicle, so long as the vehicle is in a location where it is otherwise permitted to be.

The act also protects any business entity, property owner, or employer from civil liability for damages, injuries, or death resulting from another person's actions involving a firearm or ammunition transported or stored in a motor vehicle according to the above provision, including from theft of a firearm from an employee's or invitee's automobile, unless the business entity, property owner, or public or private employer intentionally solicited or procured the other person's injurious actions.²⁷

Concealed handgun license fee revenue

The act permits a sheriff, with the approval of the board of county commissioners, to use the county's portion of revenue from concealed handgun license fees for ammunition and firearms to be used by the sheriff and the sheriff's employees. Under continuing law, the county portion of those fees may also 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 education program or a firearm training or qualification program.²⁸

Certified children's crisis care facility

The act 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

²⁶ R.C. 2923.122(D)(1)(a).

²⁷ R.C. 2923.1210.

²⁸ R.C. 311.42.



may maintain firearms at the facility. The act also permits security personnel to bear firearms while on facility grounds.²⁹

COMMENT

1. The act's new immunity provision for institutions of higher education, R.C. 2923.126(C)(2)(c), is modeled on R.C. 2923.126(C)(2)(a). However, the preexisting 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" should probably be inserted into the new provision.

2. The act revises the list of places where carrying a concealed handgun is prohibited, but does not change the list of persons required to post a sign that states: "Unless otherwise authorized by law, pursuant to the Ohio Revised Code, no person shall knowingly possess, have under the person's control, convey, or attempt to convey a deadly weapon or dangerous ordnance onto these premises." The list of persons includes the authority over an airport facility, the owner, administrator, or operator of a day-care facility, and the entity in charge of a government facility. Though there is no criminal penalty for failing to post the sign prohibiting weapons, R.C. 2923.1212(A) should probably be amended to be consistent with the changes made by the act.

HISTORY

ACTION	DATE
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²⁹ R.C. 5103.132.

