



# OHIO LEGISLATIVE SERVICE COMMISSION

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## Bill Analysis

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### **Am. Sub. H.B. 228** 132nd General Assembly (As Passed by the House)

**Reps.** Johnson and LaTourette, Conditt, Schuring, Pelanda, Patton, McColley, Antani, Becker, Brenner, Carfagna, Dean, Duffey, Ginter, Goodman, Green, Henne, Hill, Hood, Householder, Huffman, Keller, Koehler, Lipps, Merrin, Riedel, Roegner, Romanchuk, Schaffer, Slaby, R. Smith, Sprague, Stein, Thompson, Vitale, Wiggam, Retherford, Butler, Faber, Gavarone, Hagan, Hoops, Kick, McClain, Perales, Seitz, T. Smith, Wilkin, Young

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## **BILL SUMMARY**

### **State preemption**

- Expands the scope of an individual's right to bear arms and the state's need to regulate firearms.
- Expands state preemption of local firearm regulations that interfere with the right to bear arms and inhibit an individual from protecting themselves, their families, and others from intruders or attackers, or otherwise inhibit the legitimate use of firearms.
- Expands the situations in which a person, group, or entity adversely affected by the enactment or enforcement of a local firearm regulation may bring a civil action for damages, declaratory relief, injunctive relief, or reasonable expenses.

### **Self-defense**

- Shifts to the state the burden to prove beyond a reasonable doubt that a person charged with an offense that involved the use of force against another did not use that force in self-defense, defense of another, or defense of that person's residence.
- Requires that a person charged with an offense present evidence upon which a factfinder could rationally find, when reviewed in the light most favorable to the accused, that the accused acted in self-defense, defense of another, or defense of that person's residence.

- Expands circumstances under which a person has no duty to retreat before using force in self-defense, defense of another, or defense of the person's residence.
- Limits the use of self-defense, defense of another, or defense of that person's residence in tort and criminal actions under certain circumstances.

### **Elimination and modification of carry requirements**

- Eliminates the mandatory posting of signs that warn against the conveyance of a deadly weapon or dangerous ordnance onto specified premises.
- Eliminates the requirement that a concealed handgun licensee in possession of a concealed handgun must carry valid identification.
- Modifies the requirement that a concealed handgun licensee carrying or transporting a concealed handgun must keep hands in plain sight during a law enforcement stop.
- Eliminates the requirement that a concealed handgun licensee carrying or transporting a concealed handgun must keep hands in plain sight during a motor vehicle law enforcement stop.

### **Carrying concealed weapons**

- Reduces certain carrying concealed weapons offenses to minor misdemeanors in circumstances where the offender does not commit a separate offense while carrying the concealed handgun.

### **Improperly handling firearms in a motor vehicle**

- Reduces certain improperly handling firearms in motor vehicle offenses to minor misdemeanors in circumstances where the offender does not commit a separate offense while carrying the concealed handgun.
- Provides an affirmative defense to improperly handling firearms in a motor vehicle if the firearm is a handgun; the handgun is placed in the motor vehicle by someone other than the defendant; and the defendant did not know or have reason to know that the handgun was placed in the motor vehicle.

### **Unlawful transactions in weapons**

- Expands the offense of unlawful transactions in weapons by prohibiting a person from knowingly doing any of the following:



- Soliciting a federally licensed firearms dealer or private seller to transfer a firearm or ammunition in a manner prohibited by state or federal law;
  - Providing materially false information to a federally licensed firearms dealer;
  - Procuring another person to commit the above offenses.
- Makes a violation a third degree felony.

**Rental agreements for subsidized residential premises**

- Bars a rental agreement for subsidized residential premises from requiring a tenant to agree to a prohibition or restriction on the ownership, use, or possession of a firearm, firearm component, or ammunition within the tenant's rental dwelling unit.
- Allows a landlord to impose reasonable restrictions on the possession, use, or transport of a firearm, firearm component, or ammunition in common areas.
- Provides that if a landlord brings a civil action to enforce a rental agreement containing a barred provision, a tenant, tenant's household member, or a tenant's guest may recover damages, court costs, and reasonable attorney fees.

**Definitions of sawed-off firearm and dangerous ordnance**

- Excludes certain firearms from the definitions of sawed-off firearm and dangerous ordnance.

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## CONTENT AND OPERATION

### State preemption

The bill expands the right to bear arms to include acquiring, carrying, and manufacturing firearms, their components, and their ammunition. Under current law, an individual may exercise the right to keep and bear arms by owning, possessing, purchasing, selling, transferring, transporting, storing, or keeping firearms, their components, and their ammunition.

The bill expands the state's regulation of firearms to include manufacturing, taxing, keeping, and reporting of loss or theft of firearms, their components, and their ammunition. Current law provides that the state has the need to provide uniform laws throughout the state regulating firearm ownership, possession, purchase, acquisition, transport, storage, carrying, sale, or transfer of firearms, their components, and their ammunition. The bill further specifies that any local firearm regulation that interferes with an individual's right to bear arms, inhibits individuals from protecting themselves, their families, or others from intruders and attackers, or otherwise inhibits the legitimate use of firearms is preempted by the state of Ohio.<sup>1</sup>

The bill allows a "person, group, or entity adversely affected" by the enactment or enforcement of a preempted local firearm ordinance, rule, regulation, resolution, practice, or other action enacted or enforced by a political subdivision to bring a civil action against the political subdivision.<sup>2</sup> A "person, group, or entity adversely affected" means any of the following:<sup>3</sup>

- (1) A person with standing to bring the civil action;
- (2) An Ohio resident who may legally possess a firearm; or
- (3) A membership organization, group, or entity with at least one member who has standing to bring the civil action or who may legally possess a firearm.

The court may award actual damages, declaratory relief, injunctive relief, or a combination thereof. Additionally, reasonable expenses must be awarded if either of the following is true: (1) the person, group, or entity prevails in their civil action, or (2) the ordinance, rule, regulation, resolution, practice, or action or the manner of its enforcement is repealed or rescinded prior to a final determination of the civil action.

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<sup>1</sup> R.C. 9.68(A).

<sup>2</sup> R.C. 9.68(B).

<sup>3</sup> R.C. 9.68(C)(3).



Reasonable expenses include reasonable attorney's fees, court costs, expert witness fees, and compensation for loss of income. Any damages or expenses awarded must be awarded against, and paid by, the political subdivision.<sup>4</sup>

## **Self-defense**

### **Burden of proof**

The bill shifts the burden of proof for the affirmative defense of self-defense, defense of another, or defense of a person's residence to the prosecution. Under the bill, a person accused of an offense that involved the person's use of force against another need only present evidence upon which a factfinder could rationally find, when viewed in the light most favorable to the accused, that the accused used the force in self-defense, defense of another, or defense of that person's residence, and the prosecution must prove beyond a reasonable doubt that the accused person did not use the force in self-defense, defense of another, or defense of the person's residence.

Under current law, if an accused asserts the affirmative defense of self-defense, defense of another, or defense of the person's residence, as with other affirmative defenses, the burden is on the accused to establish by a preponderance of the evidence that the accused acted in self-defense, defense of another, or defense of the person's residence.

Under continuing law, unchanged by the bill, a person is presumed to have acted in self-defense or defense of another when using defensive force that is intended to cause death or great bodily harm to another if the person against whom the defensive force is used unlawfully and without privilege to do so entered or is entering the residence or vehicle occupied by the person using the defensive force.<sup>5</sup>

### **Duty to retreat**

For civil and criminal actions, the bill eliminates the duty of an individual to retreat before using force in self-defense, defense of another, or defense of the person's residence if the person is in a place in which the person lawfully has a right to be. This expands the circumstances in which an individual has no duty to retreat, which applies under current law only to a person lawfully in the person's residence, the person's vehicle, or the vehicle of an immediate family member. Under the bill, a trier of fact is not to consider the possibility of retreat as a factor in determining whether or not a person who used force in self-defense, defense of another, or defense of the person's

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<sup>4</sup> R.C. 9.68(B) and (C)(4).

<sup>5</sup> R.C. 2901.05.



residence reasonably believed that the force was necessary to prevent injury, loss, or risk to life or safety.<sup>6</sup>

## Limitations

For civil and criminal<sup>7</sup> actions, the bill prohibits the use of the affirmative defense of self-defense, defense of another, or defense of that person's residence by the following individuals:<sup>8</sup>

- A person who uses force during an attempted commission, commission, or escape after the commission of a felony offense of violence;
- A person who uses force after initially provoking another (aggressor) to use force or the threat of force unless either of the following apply: (1) the aggressor's use of force or threat of force is sufficient for the person to reasonably believe that the person is in imminent danger of death or great bodily harm, and the person has exhausted all reasonable means of escape except for the use of force or threat of force which is likely to cause death or great bodily harm to the aggressor, or (2) the aggressor's use of force or threat of force continues or resumes after the person, in good faith, withdraws from physical contact and clearly indicates the desire to withdraw and terminate the use of force or threat of force;
- A person who uses force while resisting an unlawful arrest if both of the following apply: (1) the person uses force against a peace officer, and (2) the person knows the person making the unlawful arrest is a peace officer;
- A person who uses force while resisting a lawful arrest if either of the following apply: (1) the person uses force against the person making the arrest, or (2) the person uses force against the person assisting in making the arrest;
- A person who uses force against a peace officer or person assisting a peace officer if the peace officer is acting within the scope of the peace officer's official duties;
- A person who uses force while committing a violation of "having weapons while under disability."

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<sup>6</sup> R.C. 2307.601(B) and (C) and 2901.09(B) and (C).

<sup>7</sup> In a drafting error, division (D) of section 2901.09 of the Revised Code, as amended by the bill, refers to the availability of the affirmative defense of self-defense in a tort action despite the fact that the section as a whole refers to the defense in the context of a criminal offense.

<sup>8</sup> R.C. 2307.601(D), 2901.05(B), and 2901.09(D) and R.C. 2923.13, not in the bill.



The bill specifies that a person who would otherwise be prohibited from using self-defense, defense of another, or defense of that person's residence as described above may utilize any common law affirmative defense, including self-defense, defense of another, or defense of that person's residence, if the affirmative defense was available to the person prior to the effective date of the act.<sup>9</sup>

## Elimination and modification of carry requirements

### Posting of prohibited carry signs

The bill eliminates a requirement that specified persons, boards, and entities, or their designees responsible for various premises post in a conspicuous place on the premises a sign that contains a statement in substantially the following form: "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 following table describes the premises on which these signs must be posted under current law and the individual or entity responsible for posting the sign.<sup>10</sup>

Posting requirements eliminated by the bill	
Place	Individual or entity responsible for posting the sign
Police stations, municipal jails, and municipal courthouses and courtrooms	The Director of Public Safety or the person or board charged with the erection, maintenance, or repair of police stations, municipal jails, and the municipal courthouse and courtrooms
Sheriff's office	The sheriff or the sheriff's designee
Highway patrol station	The Superintendent of the State Highway Patrol
Jails, workhouses, community-based correctional facilities, halfway houses, alternative residential facilities and other state or local correctional institutions or detention facilities	The sheriff, chief of police, or person in charge of the facility or a designee of that person
Airport facility	The board of trustees of the regional airport authority, chief administrative officer, or other person in charge of the facility
Courthouses or buildings or structures in which a courtroom is located	The officer or officer's designee who has charge of the courthouse, building, or structure

<sup>9</sup> R.C. 2307.601(E) and 2901.09(E).

<sup>10</sup> R.C. 2923.1212, repealed by the bill, and 307.932(H)(5).



<b>Posting requirements eliminated by the bill</b>	
<b>Place</b>	<b>Individual or entity responsible for posting the sign</b>
Premises controlled by the Bureau of Criminal Identification and Investigation	The Superintendent of the Bureau of Criminal Identification and Investigation or the Superintendent's designee
A child day-care center, a type A family day-care home, or a type B family day-care home	The owner, administrator, or operator of the center or home
A government facility of the state or a political subdivision of the state that is not a building used primarily as a shelter, restroom, parking facility for motor vehicles, or rest facility	The state or political subdivision officer who has charge of the building or the officer's designee
A community alternative sentencing center	The administrator of the center or the administrator's designee

Similarly, the bill eliminates the requirement that every public or private K-12 school post in a conspicuous location on school property a sign that contains a statement in substantially the following form: "Unless otherwise authorized by law, pursuant to Ohio Revised Code section 2923.122, no person shall knowingly possess, have under the person's control, convey, or attempt to convey a deadly weapon or dangerous ordnance into a school safety zone."<sup>11</sup>

### **Carrying of valid identification**

The bill eliminates the requirement that a concealed handgun licensee must carry valid identification when in possession of a concealed handgun. Under current law, a concealed handgun licensee must carry both a valid concealed handgun license and valid identification when in possession of a concealed handgun.<sup>12</sup>

### **Hands in plain sight during law enforcement encounters**

The bill modifies the continuing law duty of a concealed handgun licensee to keep the licensee's hands in plain sight when the licensee is carrying or transporting a concealed weapon and stopped for a law enforcement purpose. Under current law, a licensee must not knowingly fail to keep the licensee's hands in plain sight after a law enforcement officer begins approaching the licensee while stopped and before the licensee leaves, unless directed otherwise by a law enforcement officer. Under the bill,

<sup>11</sup> R.C. 2923.1212, repealed by the bill.

<sup>12</sup> R.C. 2923.126(A).





the licensee is excused from the requirement to keep the licensee's hands in plain sight under those circumstances if doing so is impractical.<sup>13</sup>

The bill eliminates the duty as it applies to a person stopped while a driver or passenger in a motor vehicle. Under current law, eliminated by the bill, a licensee must keep the licensee's hands in plain sight when the licensee is carrying or transporting a concealed weapon in a vehicle that is stopped for law enforcement purposes.<sup>14</sup>

### **Reciprocity with other states**

The bill specifies that a qualified retired peace officer who has the same right to carry a concealed handgun as a concealed handgun licensee should be considered for purposes of reciprocity with other states a "licensee who has been issued a concealed handgun license" under continuing law. Current law specifies that such an officer be considered for purposes of reciprocity with other states a "licensee in this state."<sup>15</sup>

### **Carrying concealed weapons**

#### **Penalties**

The bill reduces to a minor misdemeanor the penalty for carrying a concealed handgun other than dangerous ordnance if the offender does not commit a separate offense while carrying the concealed handgun. If the offender commits a separate offense, the reduction does not apply and the offender is subject to the same penalties as would apply under current law for the offenses.

In general, under the bill, the penalty for illegally carrying a concealed handgun that is not dangerous ordnance is a minor misdemeanor. If the person is committing any other offense while carrying a concealed handgun, it is a first degree misdemeanor. These penalties are subject to the special circumstances described below.<sup>16</sup>

Under the bill, a person who illegally carries a concealed handgun is guilty of a minor misdemeanor if the person is permitted to possess the weapon and not in a prohibited place. This is a decrease from the first degree misdemeanor penalty that currently applies. However, if the person commits another offense while illegally

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<sup>13</sup> R.C. 2923.126(A) and 2923.12(B)(2).

<sup>14</sup> R.C. 2923.16(E)(3).

<sup>15</sup> R.C. 2923.126(F)(1).

<sup>16</sup> R.C. 2923.12(F)(1).



carrying the concealed handgun, the person is subject to the same first degree misdemeanor penalty that would apply under current law.<sup>17</sup>

Similarly, under the bill, a person who illegally carries a concealed handgun and either has previously been convicted of carrying concealed weapons or an offense of violence or has the handgun loaded or ammunition ready at hand is guilty of a minor misdemeanor. The penalty under current law is a fourth degree felony. However, if the person commits another offense while illegally carrying the concealed handgun and the person has previously been convicted of carrying a concealed handgun or of an offense of violence or has the handgun loaded or ammunition ready at hand, the person is subject to the same fourth degree felony penalty that would apply under current law.<sup>18</sup>

The bill also lowers the penalty under certain circumstances for illegally carrying a concealed weapon on the premises of an institution of higher education. Under current law, a person who illegally carries a concealed handgun while knowingly on the premises of an institution of higher education, who is not authorized to carry the handgun or in the process of securing the handgun in a motor vehicle, and who produces a valid concealed handgun license within ten days after arrest for the offense, is guilty of a minor misdemeanor. If the person does not produce a valid concealed handgun license within ten days after arrest, the person is guilty of a first degree misdemeanor. Under the bill, the person is guilty of a minor misdemeanor, regardless of whether the person produces a valid concealed handgun license within ten days after the arrest for the offense. Continuing law retains graduated penalties for persons who commit the same offense and who have increasing numbers of prior violations of carrying concealed weapons or who meet other circumstances.<sup>19</sup>

Related to these penalty changes, the bill eliminates a number of conditions that must be met under current law for a concealed handgun license holder to avoid arrest and have charges of carrying concealed weapons reduced from a first degree misdemeanor to a minor misdemeanor. As explained above, under the bill, carrying concealed weapons is generally a minor misdemeanor, regardless of whether these additional conditions are met.<sup>20</sup>

The bill also reduces from \$500 to \$150 the civil penalty that applies to an active duty member of the armed forces of the United States who is arrested for carrying concealed weapons if the person is unable to promptly produce a valid military

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<sup>17</sup> R.C. 2923.12(F)(1).

<sup>18</sup> R.C. 2923.12(F)(1).

<sup>19</sup> R.C. 2923.12(F)(7).

<sup>20</sup> R.C. 2923.12(F)(2)(a), eliminated by the bill.



identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements prescribed under continuing law for obtaining a concealed handgun license. Continuing law retains the automatic dismissal of this civil penalty if the member produces the identification card and proper documentation within ten days after the issuance of the citation, so long as the member was not knowingly in an area where concealed carry is prohibited.<sup>21</sup>

### **Offense**

Under current law, the offense of carrying concealed weapons prohibits a person from knowingly carrying or having, concealed on the person's person or concealed ready at hand, a deadly weapon other than a handgun, a handgun other than dangerous ordnance, or dangerous ordnance.<sup>22</sup>

## **Improperly handling firearms in a motor vehicle**

### **Penalties**

The bill reduces to a minor misdemeanor the penalty for a number of offenses dealing with the carrying of firearms in motor vehicles.

Under current law, a person who knowingly illegally transports or has a loaded firearm in a motor vehicle in such a manner that the firearm is accessible to the operator or any passenger without leaving the vehicle is guilty of a fourth degree felony. Under the bill, the person would instead be guilty of a minor misdemeanor. However, if the person commits any other offense while transporting or having the loaded firearm in the motor vehicle, the person is subject to the same fourth degree felony penalty that would apply under current law.<sup>23</sup>

Under current law, a person who knowingly illegally transports or has a firearm in a motor vehicle is guilty of a fourth degree misdemeanor if the person is prohibited from lawfully possessing that firearm under state or federal law, if the firearm is loaded, or if the firearm is not secured in the motor vehicle as specified in state law. Under the bill, the person would instead be guilty of a minor misdemeanor. However, if the person who has or transports the firearm commits another offense while transporting or having the firearm, the person is subject to the same fourth degree misdemeanor penalty that would apply under current law.<sup>24</sup>

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<sup>21</sup> R.C. 2923.12(F)(6).

<sup>22</sup> R.C. 2923.12(A).

<sup>23</sup> R.C. 2923.16(B) and (I)(5).

<sup>24</sup> R.C. 2923.16(C) and (I)(2).



Also reduced under the bill are the penalties that apply to a driver or occupant of a vehicle who is a concealed handgun licensee that is stopped for a law enforcement purpose who is transporting or has a loaded handgun in the vehicle. Under current law, if such a driver or occupant of a vehicle that is stopped for law enforcement purposes is transporting a loaded handgun in the vehicle, the penalty for failure to notify a law enforcement officer or motor carrier enforcement employee that the person has a concealed handgun license and is carrying a loaded handgun is a first degree misdemeanor and the offender's concealed handgun license must be suspended.<sup>25</sup> Knowingly having contact with a loaded handgun in those circumstances is a felony of the fifth degree.<sup>26</sup> Knowingly disregarding or failing to comply with a lawful order of a law enforcement officer or failing to remain in the motor vehicle in those circumstances is a first degree misdemeanor, and the offender's concealed handgun license must be suspended. If the offender has previously been convicted of failing to remain in the motor vehicle or failure to comply with a lawful order under those circumstances, the offense is a fifth degree felony.<sup>27</sup> The bill reduces penalties for these offenses to a minor misdemeanor and eliminates the required license suspension, if applicable, unless the person committed any other offense while transporting the loaded handgun, in which case the current penalties still apply.<sup>28</sup>

### **Affirmative defense**

The bill provides an affirmative defense to a charge of "improperly handling firearms in a motor vehicle" if all of the following are true:<sup>29</sup>

- The firearm was a handgun;
- The handgun was placed in the motor vehicle by an individual other than the defendant;
- The defendant did not know or have reason to know that the handgun was placed in the motor vehicle.

### **Offense**

Under current law, the offense of "improperly handling firearms in a motor vehicle" prohibits a person from knowingly transporting or having the following:<sup>30</sup>

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<sup>25</sup> R.C. 2923.16(E)(1) and (2) and (I).

<sup>26</sup> R.C. 2923.16(E)(4) and (I).

<sup>27</sup> R.C. 2923.16(E)(3) and (5) and (I).

<sup>28</sup> R.C. 2923.16(E) and (I)(4).

<sup>29</sup> R.C. 2923.16(G)(3).



- A loaded firearm in a motor vehicle in such a manner that the firearm is accessible to the operator or any passenger without leaving the vehicle;
- A firearm in a motor vehicle, unless the person may lawfully possess that firearm under state or federal law, if the firearm is unloaded, and the firearm is secured in a closed package, box, or case, in a compartment that can be reached only by leaving the vehicle, in plain sight and secured in a rack or holder made for the purpose, or, if the firearm is at least 24 inches in overall length and the barrel is at least 18 inches in length, either in plain sight with the action open or the weapon stripped, or, if the firearm is of a type on which the action will not stay open or which cannot easily be stripped, in plain sight;
- A loaded handgun in a motor vehicle if the person is under the influence of alcohol, a drug of abuse, or a combination of them or the person's blood, breath, or urine contains a prohibited concentration of alcohol, a listed controlled substance, or a listed metabolite of a controlled substance prohibited for persons operating a vehicle, as specified in the state's OVI Law, regardless of whether the person is the operator of or a passenger in the vehicle.

### **Unlawful transactions in weapons**

The bill prohibits a person from knowingly doing any of the following:<sup>31</sup>

- Soliciting, persuading, encouraging, or enticing a federally licensed firearms dealer or a private seller to transfer a firearm or ammunition in a manner prohibited by state or federal law;
- Providing "materially false information" to a federally licensed firearms dealer or private seller. "Materially false information" is defined as information relating to the transfer of a firearm or ammunition that portrays an illegal transaction as legal or a legal transaction as illegal;
- Procuring, soliciting, persuading, encouraging, or enticing another person to commit the above offenses.
- The penalty for the above offenses is a third degree felony.<sup>32</sup>

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<sup>30</sup> R.C. 2923.16(A) to (D).

<sup>31</sup> R.C. 2923.20(A)(3) to (5) and (D)(3).

<sup>32</sup> R.C. 2923.20(C).



The bill exempts the following individuals from the above offenses:<sup>33</sup>

- A law enforcement officer acting within the scope of the officer's duties;
- A person acting in accordance with directions given by a law enforcement officer.

Under current law, the offense of unlawful transactions in weapons prohibits a person from doing any of the following:<sup>34</sup>

- Recklessly selling, lending, giving, or furnishing any firearm or dangerous ordnance to any person otherwise prohibited by state law from acquiring or using any firearm or dangerous ordnance;
- Possessing any firearm or dangerous ordnance with purpose to dispose of it in violation of the above;
- Manufacturing, possessing for sale, selling, or furnishing to any person other than a law enforcement agency for authorized use in police work, any brass knuckles, cestus, billy, blackjack, sandbag, switchblade knife, springblade knife, gravity knife, or similar weapon;
- When transferring any dangerous ordnance to another, negligently failing to follow any of several specified requirements;
- Knowingly failing to report the loss or theft of any firearm or dangerous ordnance in the person's possession or under the person's control to law enforcement authorities.

### **Rental agreements for subsidized residential premises**

The bill generally bars a rental agreement for "subsidized residential premises" (a defined term)<sup>35</sup> from requiring a tenant to agree to a prohibition or restriction on the lawful ownership, use, or possession of a firearm, a firearm component, or ammunition within the tenant's rental dwelling unit. However, a landlord may impose reasonable restrictions on the possession, use, or transport of a firearm, a firearm component, or

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<sup>33</sup> R.C. 2923.20(B).

<sup>34</sup> R.C. 2923.20(A)(1), (2), (6), (7), and (8).

<sup>35</sup> R.C. 5321.01(P).



ammunition within common areas as long as the restrictions do not circumvent the purpose of the provision described above.<sup>36</sup>

A tenant is required to exercise reasonable care in storing a firearm, a firearm component, or ammunition. A landlord who is required to allow a firearm, a firearm component, or ammunition onto the property is granted civil immunity in an action for injury, death, or loss unless the landlord's conduct was willful, wanton, reckless, or grossly negligent.<sup>37</sup>

Under the bill, if a landlord brings an action to enforce a provision barred by the provisions described above, a tenant, tenant's household member, or tenant's guest who is or would be affected by the enforcement may recover actual damages, court costs, and reasonable attorney's fees.<sup>38</sup>

The bill's provisions do not apply to, limit, or affect any prohibition or restriction required by any Ohio or federal law, rule, or regulation.<sup>39</sup>

### **Definitions of sawed-off firearm and dangerous ordnance**

The bill specifies that the current law definitions of "sawed-off firearm" and "dangerous ordnance" do not include a firearm that meets all of the following criteria: (1) the overall length of the firearm is at least 26 inches, (2) the firearm is approved for sale by the Federal Bureau of Alcohol, Tobacco, Firearms and Explosives under the Gun Control Act of 1968, and (3) the firearm is found not to be regulated by the Federal Bureau of Alcohol, Tobacco, Firearms and Explosives under the National Firearms Act.<sup>40</sup>

The existing definition of sawed-off firearm is a shotgun with a barrel less than 18 inches long, a rifle with a barrel less than 16 inches long, or a shotgun or rifle less than 26 inches long overall.<sup>41</sup>

The existing definition of dangerous ordnance is any of the following: (1) any automatic or sawed-off firearm, zip-gun, or ballistic knife, (2) any explosive or incendiary device, (3) high explosives or high explosive compositions, (4) plastic

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<sup>36</sup> R.C. 5321.13(G)(1).

<sup>37</sup> R.C. 5321.13(G)(1) and (3).

<sup>38</sup> R.C. 5321.13(G)(2).

<sup>39</sup> R.C. 5321.13(G)(4).

<sup>40</sup> R.C. 2923.11(F) and (L)(7).

<sup>41</sup> R.C. 2923.11(F).



explosives, (5) blasting agents, (6) any explosive substances suitable for military, mining, quarrying, excavating, or demolition use, (7) any firearm, rocket launcher, mortar, artillery piece, grenade, mine, bomb, torpedo, or similar weapon or ammunition designed and manufactured for military use, (8) any firearm or muffler suppressor, and (9) any combination of parts that are intended by the owner for use in converting any firearm or other device into dangerous ordnance.<sup>42</sup>

Already excluded from the definition of dangerous ordnance are the following: (1) any firearm that employs a percussion cap or other obsolete ignition system or that is designed and safe for use only with black powder, (2) any pistol, rifle, or shotgun designed or suitable for sporting purposes and the ammunition for that weapon, unless the firearm is an automatic or sawed-off firearm, (3) any canon or other artillery piece that is of a type in accepted use prior to 1887, has no mechanical, hydraulic, pneumatic, or other system for absorbing recoil and returning the tube into battery without displacing the carriage, and is designed and safe for use only with black powder, (4) black powder, priming quills, and percussion caps possessed and lawfully used to fire a canon, described above, during displays, celebrations, organized matches or shoots, and target practice, (5) smokeless and black powder, primers, and percussion caps possessed and lawfully used as a propellant or ignition device in small-arms or small-arms ammunition, (6) dangerous ordnance that is inoperable or inert and cannot readily be rendered operable or activated, and that is kept as a trophy, souvenir, curio, or museum piece, or (7) any device that is expressly excepted from the definition of destructive device under the Gun Control Act of 1968.<sup>43</sup>

## Technical change

The bill also changes an apparently incorrect cross reference.<sup>44</sup>

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## HISTORY

ACTION	DATE
Introduced	05-16-17
Reported, H. Federalism & Interstate Relations	05-23-18
Passed House (65-32)	11-14-18

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<sup>42</sup> R.C. 2923.11(K)(1) to (6).

<sup>43</sup> R.C. 2923.11(L)(1) to (6).

<sup>44</sup> R.C. 2923.12(F)(1) and 2953.37(D)(2)(b).

