



OHIO LEGISLATIVE SERVICE COMMISSION

Bill Analysis

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Sub. H.B. 228*

132nd General Assembly

(As Reported by S. Government Oversight & Reform)

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

BILL SUMMARY

State preemption

(R.C. 9.68)

- Expands the scope of an individual's right to bear arms to include acquiring, carrying, and manufacturing firearms, their components, and ammunition.
- 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.
- 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.
- Provides that the changes above to the state preemption statute take effect nine months after the effective date of the bill.

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

Self-defense

(R.C. 2901.05)

- 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 that tends to support that the accused acted in self-defense, defense of another, or defense of that person's residence.

Elimination and modification of carry requirements

(R.C. 307.932, 2923.1212, and 2923.126)

- Replaces a provision that lists specific entities that are required to post a sign stating "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 entities mostly are identified in R.C. 2923.126(B) as places into which a concealed handgun license does not authorize the licensee to carry a concealed handgun) with a provision that does not name specific entities but instead specifies that each person, board, or entity that owns or controls any place or premises identified in R.C. 2923.126(B) to post the sign in one or more conspicuous locations in the premises.
- Eliminates the requirement that a concealed handgun licensee in possession of a concealed handgun must carry valid identification.

Unlawful transactions in weapons

(R.C. 2923.18 and 2923.20)

- 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 or private seller;
 - Procuring another person to commit the above offenses.
- Makes a violation of any of the prohibitions above a third degree felony.



- Exempts from the above offenses any law enforcement officer acting within the scope of the officer's duties or a person acting in accordance with directions given by a law enforcement officer.

Definitions of sawed-off firearm and dangerous ordnance

(R.C. 2923.11)

- Specifies that the definitions of "sawed-off firearm" and "dangerous ordnance" do not include a firearm that meets all of the following criteria: (1) the overall length 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.

Corrections officers authorized to carry firearms on duty

(R.C. 109.801 and 307.93)

- Permits a corrections officer employed by a multicounty, municipal-county, or multicounty-municipal correctional center to carry a firearm while on duty if the officer has received firearms training and is specifically authorized to carry firearms by the person in charge of the correctional center in which the officer serves.
- Requires corrections officers who are authorized to carry firearms to complete annual firearms requalification training.

Law enforcement officer "always on duty"

(R.C. 9.69)

- Enacts a provision, using language taken from case law, that specifies that, for Revised Code purposes, both of the following apply regarding a law enforcement officer who, by virtue of the officer's capacity as that law enforcement officer, has a responsibility to enforce all or certain laws:
 - The officer holds public office on a continuing basis and has a continuing duty to enforce those laws; and
 - The officer is always on duty, regardless of whether the officer is, or is not, officially within work hours or officially on the clock.
- Defines a "law enforcement officer" for purposes of the provision as any person employed, commissioned, disposed, appointed, or elected in any of the following



capacities for the state of Ohio, an Ohio political subdivision, or an agency, department, or instrumentality of either such entity:

- Any law enforcement officer, as defined in R.C. 2901.01;
- Any peace officer, as defined in R.C. 2935.01; or
- Any person employed in Ohio who is authorized to carry firearms and is in compliance with applicable R.C. 109.801 firearms requalification requirements.

Illegal possession of a firearm in a liquor permit premises

(R.C. 2923.121)

- Regarding the existing exemptions from "illegal possession of a firearm in a liquor permit premises" for law enforcement officers and persons subject to and in compliance with applicable firearms requalification provisions:
 - Retains the exemption that applies to any law enforcement officer authorized to carry a firearm and acting within the scope of the officer's duties;
 - Adds a new general exemption for any law enforcement officer or BCII investigator who is authorized to carry firearms but is not acting within the scope of the person's duties if the person is carrying validating identification, the agency served by the individual has not "opted out" of this exemption (this criterion applies only if the firearm the person has was issued or approved by the agency), and the individual is not consuming beer or liquor and is not under the influence of alcohol or a drug of abuse;
 - Uses the definition of "law enforcement officer" described above under **Law enforcement officer "always on duty"**;
 - Repeals the existing exemption for persons employed in Ohio who are subject to and in compliance with the R.C. 109.801 firearms requalification provisions, that applies in all circumstances (but they are included within the scope of the exemption described in the second preceding dot point).

Public place – cannot bar law enforcement officer/BCII investigator from carrying weapon on premises

(R.C. 2923.126 and 2923.1214)

- Specifies that, subject to the agency "opt-out" provision described below, an establishment serving the public may not bar a law enforcement officer or BCII investigator who is carrying validating identification from carrying a weapon on the



premises that the individual is authorized to carry, regardless of whether the individual is acting within the scope of their duties while carrying the weapon.

- Specifies that the general restriction it enacts as described in the preceding dot point does not apply with respect to a law enforcement officer's or BCII investigator's carrying of a weapon on such premises if the individual is not acting within the scope of their duties, the weapon is a firearm issued or approved by the individual's agency, and the agency or bureau has a restrictive firearms carrying policy prohibiting its officers or investigators from carrying such an issued or approved firearm in such a manner.
- Specifies that the general restriction it enacts as described in the second preceding dot point is an exception to the existing provisions that permit the posting of private land or privately leased public land against possession of firearms on the land and that provide sanctions for violating such a posted prohibition.
- Provides that, subject to the exception described in the next dot point, the employer of persons at an establishment serving the public and the owner and operator of such an establishment is immune from liability in a civil action for injury, death, or loss that allegedly was caused by or related to a law enforcement officer or BCII investigator bringing a weapon into, or on the premises of, the establishment.
- Provides that the immunity described in the preceding dot point is not available to an owner, operator, or employer if the owner, operator, or employer engaged in an act or omission that contributed to the injury, death, or loss and that act or omission was with malicious purpose, in bad faith, or in a wanton or reckless manner.
- For all of these provisions:
 - "Establishment serving the public" means a hotel, a restaurant or other place where food is regularly offered for sale, a retail business or other commercial establishment or office building that is open to the public, a sports venue, or any other place of public accommodation, amusement, or resort that is open to the public.
 - Uses the definition of "law enforcement officer" described above under **Law enforcement officer always on duty**.

Peace officer -- concealed handgun licensee

(R.C. 2923.126)

- In the existing provision that specifies that a peace officer has the same right to carry a concealed handgun in Ohio as a person who has been issued a concealed handgun license, specifies that the provision applies only if the officer when carrying a concealed handgun is carrying validating identification.

Concealed handgun licensee -- carrying of valid identification

(R.C. 2923.126)

- The bill eliminates the requirement that a concealed handgun licensee must carry valid identification when in possession of a concealed handgun -- currently, a concealed handgun licensee must carry both a valid concealed handgun license and valid identification when in possession of a concealed handgun.

Concealed handgun law – broad law enforcement agency immunity

(R.C. 2923.129)

- Repeals a provision under which a law enforcement agency that employs a peace officer is immune from liability in a civil action to recover damages for injury, death, or loss allegedly caused by any act of that officer that occurred while the officer carried a concealed handgun and was off duty if the act allegedly involved the officer's use of the concealed handgun and under which existing Revised Code provisions regarding governmental immunity and potential liability are specified as applying to any civil action involving a peace officer's use of a concealed handgun in the performance of the officer's official duties while the officer is off duty.

HISTORY

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

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