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# OHIO LEGISLATIVE SERVICE COMMISSION

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S.B. 185  
134<sup>th</sup> General Assembly

## Bill Analysis

**Version:** As Introduced

**Primary Sponsor:** Sen. Schaffer

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### SUMMARY

- Declares that certain firearms businesses and services are life-sustaining “essential” businesses and services for the purposes of safety and security during an emergency.
- Provides that no state agency, political subdivision, or elected or appointed official or employee of this state or any political subdivision may do any of the following during an emergency:
  - Prohibit, regulate, or curtail the otherwise lawful possession, carrying, display, sale, transportation, transfer, defensive use, or other lawful use of any firearm, ammunition, ammunition-reloading equipment, or deadly weapon;
  - Require the registration of any firearm or ammunition;
  - Seize, commandeer, or confiscate in any manner, any firearm, ammunition, ammunition-reloading equipment, or deadly weapon that is privately owned and that is possessed, carried, displayed, sold, transferred, transported, stored, or used in connection with otherwise lawful conduct;
  - Suspend or revoke a valid concealed handgun license, except as expressly authorized by law;
  - Refuse to accept or process an application for a concealed handgun license or for renewal of a concealed handgun license, provided the application for the license or for the renewal has been properly completed and submitted;
  - Prohibit, suspend, or limit the business operations of any entity engaged in the lawful selling or servicing of any firearm, ammunition, ammunition-reloading equipment, or deadly weapon;
  - Prohibit, suspend, or limit the business operations of any indoor or outdoor shooting range or any entity engaged in providing firearms training;

- Place restrictions or quantity limitations on any entity regarding the lawful sale or servicing of any firearm, ammunition, ammunition-reloading equipment, or deadly weapon;
- Suspend, restrict, or prohibit otherwise lawful hunting, fishing, or trapping activities or business entities conducting or directly facilitating lawful hunting, trapping, or fishing activities.
- Provides that if a concealed handgun license is scheduled to expire during an emergency or 30 days prior to an emergency, the license is automatically extended throughout the duration of the emergency plus an additional 90 days.
- Specifies that any person, group, or entity adversely affected by any manner of law enacted or enforced in violation of the bill may file an action for damages, injunctive relief, declaratory relief, or other appropriate redress.
- Provides that the provisions contained in the bill are severable.
- Provides that a political subdivision with police powers, when engaged in suppressing a riot or mob or when there is clear and present danger of a riot or mob, may do either of the following:
  - Cordon off any area or areas threatened by the riot or mob;
  - Prohibit persons from entering the cordoned off area or areas except when carrying on necessary and legitimate pursuits.

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## **DETAILED ANALYSIS**

### **Political subdivision suppression of a riot or mob**

Current law provides that the chief administrative officer of a political subdivision with police powers, when engaged in suppressing a riot or when there is a clear and present danger of a riot may do any of the following:

1. Cordon off any area or areas threatened by the riot;
2. Prohibit persons from entering the cordoned off area or areas except when carrying on necessary and legitimate pursuits;
3. Prohibit the sale, offering for sale, dispensing, or transportation of firearms or other dangerous weapons, ammunition, dynamite, or other dangerous explosives in, to, or from the cordoned off areas.

The bill modifies the current law provisions in two ways. First, it expands the provisions to include mobs, instead of only riots. Second, it eliminates (3) above.<sup>1</sup>

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<sup>1</sup> R.C. 3761.16.

## **Preservation of firearms rights during an emergency**

### **Essential businesses and services**

The bill provides that the transport, storage, sale, transfer, commerce in, import and export of, distribution, repair, maintenance, and manufacture of firearms, ammunition, and related accessories and components, shooting ranges, and other goods and services directly related to lawful firearm possession, use, storage, repair, maintenance, sale, and transfer, and training in the use of firearms, are declared to be life-sustaining “essential” businesses and services for the purposes of safety and security in times of declared emergency or any other statutorily authorized response to any disaster, war, act of terrorism, riot, civil disorder, public health crisis, or emergency of whatever kind or nature.<sup>2</sup>

### **Prohibited state and local actions**

The bill provides that, subject to certain exceptions, no state agency, political subdivision, or elected or appointed official or employee of this state or any political subdivision may, under any governmental authority or color of law exercised as part of any statutorily authorized response to any disaster, war, act of terrorism, riot, civil disorder, public health crisis, or emergency of whatever kind or nature, do any of the following:<sup>3</sup>

- Prohibit, regulate, or curtail the otherwise lawful possession, carrying, display, sale, transportation, transfer, defensive use, or other lawful use of any firearm, including any component or accessory of a firearm, any ammunition, including any component or accessory of ammunition, any ammunition-reloading equipment, component, or supplies, or any deadly weapon;
- Require registration of firearm owners, of any firearm, including any component or accessory of a firearm, or any ammunition, including any component or accessory of ammunition;
- Seize, commandeer, or confiscate in any manner, any firearm, including any component or accessory of a firearm, any ammunition, including any component or accessory of ammunition, any ammunition-reloading equipment, component, or supplies, or any deadly weapon that is privately owned and that is possessed, carried, displayed, sold, transferred, transported, stored, or used in connection with otherwise lawful conduct;
- Suspend or revoke a valid concealed handgun license, except as expressly authorized by law;
- Refuse to accept or process an application for a concealed handgun license or for renewal of a concealed handgun license, provided the application for the license or for the renewal has been properly completed and submitted;

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<sup>2</sup> R.C. 5502.411(B).

<sup>3</sup> R.C. 5502.411(C).

- Prohibit, suspend, or limit the business operations of any entity engaged in the lawful selling or servicing of any firearm, including any component or accessory of a firearm, any ammunition, including any component or accessory of ammunition, any ammunition-reloading equipment, component, or supplies, or any deadly weapon;
- Prohibit, suspend, or limit the business operations of any indoor or outdoor shooting range, whether located on state lands or on land other than state lands, or of any entity engaged in providing firearms safety, firearms training, firearms license qualification or requalification, firearms safety instructor courses, or any similar class, course, or program;
- Place restrictions or quantity limitations on any entity regarding the lawful sale or servicing of any firearm, including any component or accessory of a firearm, any ammunition, including any component or accessory of ammunition, any ammunition-reloading equipment, component, or supplies, or any deadly weapon;
- Suspend, restrict, or prohibit otherwise lawful hunting, fishing, or trapping activities or business entities conducting or directly facilitating lawful hunting, trapping, or fishing activities, whether conducted on state lands and waters or on land and waters other than state lands and waters.

### **Extension of concealed handgun license**

The bill provides that if a concealed handgun license has been issued to a licensee, if the Governor issues an executive order declaring an emergency, and if the date that the valid and existing license would or is scheduled to expire falls within the period of emergency declared by the Governor's executive order or the 30 days immediately preceding the date of that declaration, then, notwithstanding the date of scheduled expiration, the license is automatically extended throughout the duration of the period of the emergency plus an additional 90 days. If, during the period of the emergency or during the additional 90 days, a licensee submits an application for renewal of the license or schedules an appointment with the issuing authority or another authority authorized to renew the license, the license is further automatically extended until the renewal application is accepted and fully processed.<sup>4</sup>

The bill specifies that during the extension period all of the following apply:<sup>5</sup>

- The license is valid for all purposes under the laws of this state, and the person to whom the license was issued is considered for all purposes under the laws of this state to be the holder of a valid license to carry a concealed handgun, and the license is valid for all purposes of suspension and revocation;
- The license remains subject to suspension and revocation during the extended period of the license and at any other time;

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<sup>4</sup> R.C. 5502.411(D)(1).

<sup>5</sup> R.C. 5502.411(D)(2).

- Except for the date of scheduled expiration, all other conditions and restrictions otherwise applicable to the license and the license holder continue to apply during the extended period of the license and at any other time.

## **Remedies**

The bill specifies that a person, group, or entity adversely affected by any manner of law, ordinance, rule, regulation, resolution, practice, or other action enacted or enforced in violation of the bill may file an action for damages, injunctive relief, declaratory relief, or other appropriate redress in the court of common pleas of the county in which the aggrieved person resides or the group or entity is located, or in which the violation occurred.<sup>6</sup>

### **Civil action**

A person, group, or entity adversely affected by any manner of law, ordinance, rule, regulation, resolution, practice, or other action enacted or enforced by any state agency, any political subdivision, or any elected or appointed official or employee of the state or of a political subdivision in conflict with the bill may bring a civil action against the state agency, political subdivision, or elected or appointed official or employee of the state or of the political subdivision seeking damages, declaratory relief, injunctive relief, or a combination of those remedies.

Any damages awarded must be awarded against, and paid by, the state, the agency, or the political subdivision. In addition to any actual damages awarded against the state, the agency, or the political subdivision and any other relief provided with respect to such an action, the court must award reasonable expenses to any person, group, or entity that brings the action, to be paid by the state, agency, or political subdivision, if either of the following applies:<sup>7</sup>

- The person, group, or entity prevails in a challenge to the law, ordinance, rule, regulation, resolution, practice, or action as being in conflict with this section;
- The law, ordinance, rule, regulation, resolution, practice, or action or the manner of its enforcement is repealed or rescinded after the civil action was filed but prior to a final court determination of the action.

### **Return of seized or confiscated firearms and deadly weapons**

In addition to any other remedy available at law or in equity, a person, group, or entity aggrieved by the seizure or confiscation, in violation of the bill, of one or more items (any firearm, including any component or accessory of a firearm, ammunition, including any component or accessory of ammunition, ammunition-reloading equipment, component, or supplies, or deadly weapon) may apply to the court of common pleas of the county in which the item or items were seized or confiscated for the immediate return of the item or items.

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<sup>6</sup> R.C. 5502.411(E)(1).

<sup>7</sup> R.C. 5502.411(E)(2)(a).

Upon receipt of the application and a determination by the court that the seizure or confiscation of the item or items was in violation of this section, the court must order the immediate return of the item or items by the seizing or confiscating governmental office and that office's employed officials. If a court orders the return of the seized or confiscated item or items under this division and the item or items are not returned in accordance with the order, the aggrieved party may claim reasonable costs and attorney fees for the loss and the cost of reclaiming the item or items, or the cost of any damages to the item or items.<sup>8</sup>

## Severability

The bill states that the provisions contained in the bill are severable. Any invalid or potentially invalid provision contained in the bill does not impair the immediate and continuing enforceability of the remaining provisions.<sup>9</sup>

## Definitions

As used in the bill:

**"Ammunition"** means any projectile capable of being expelled or propelled from a firearm by the action of an explosive or combustible propellant.<sup>10</sup>

**"Concealed handgun license"** means a license or temporary emergency license to carry a concealed handgun issued by this state or a license to carry a concealed handgun issued by another state with which the Attorney General has entered into a reciprocity agreement.<sup>11</sup>

**"Deadly weapon"** means any instrument, device, or thing capable of inflicting death, and designed or specially adapted for use as a weapon, or possessed, carried, or used as a weapon.<sup>12</sup>

**"Firearm"** means any deadly weapon capable of expelling or propelling one or more projectiles by the action of an explosive or combustible propellant. "Firearm" includes an unloaded firearm, and any firearm that is inoperable but that can readily be rendered operable.<sup>13</sup>

**"Licensee"** means a person to whom a concealed handgun license has been issued and, except where the context clearly indicates otherwise, includes a person to whom a concealed handgun license on a temporary emergency basis has been issued and a person to whom a concealed handgun license has been issued by another state.<sup>14</sup>

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<sup>8</sup> R.C. 5502.411(E)(2)(b).

<sup>9</sup> R.C. 5502.411(F) and R.C. 1.50, not in the bill.

<sup>10</sup> R.C. 5502.411(A)(1) and 2305.401(A)(1), not in the bill.

<sup>11</sup> R.C. 5502.411(A)(2) and 2923.11(N), not in the bill.

<sup>12</sup> R.C. 5502.411(A)(2) and 2923.11(A), not in the bill.

<sup>13</sup> R.C. 5502.411(A)(2) and 2923.11(B), not in the bill.

<sup>14</sup> R.C. 5502.411(A)(3) and 2923.124(D), not in the bill.

“Valid concealed handgun license” means a concealed handgun license that is currently valid, that is not under suspension, and that has not been revoked.<sup>15</sup>

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## HISTORY

Action	Date
Introduced	05-25-21

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<sup>15</sup> R.C. 5502.411(A)(2) and 2923.11(O), not in the bill.