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H.B. 425*
133rd General Assembly

Bill Analysis

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Version: As Reported by Senate Government Oversight and Reform

Primary Sponsor: Rep. Wiggam

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SUMMARY

Duty to notify law enforcement of handgun possession

- Modifies the duty of a concealed handgun licensee and of an active duty military member to make certain disclosures to a law enforcement officer or State Highway Patrol motor carrier enforcement unit employee if the licensee or military member (1) is stopped and (2) is carrying a concealed handgun or, if in a motor vehicle, has a loaded handgun in the vehicle.
- Requires the licensee or military member, before or at the time the officer or employee requests the person's concealed handgun license or asks if the person is carrying a concealed handgun, to do both of the following:
 - Display the person's concealed handgun license or documents demonstrating the person is a qualified military member or orally inform the officer or employee that the person has been issued such a license or is so authorized to carry a concealed handgun as a military member;
 - Disclose that the person is carrying a handgun or, if in a motor vehicle, that there is a loaded handgun in the vehicle.
- Eliminates the penalty for a violation of the duty to notify.

Training for school personnel to go armed in a school safety zone

- Expressly exempts, from a requirement that peace officer basic training be obtained, certain employees that a board of education or governing body of a school authorizes to

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

go armed in a school safety zone within which the board or governing body has authority.

DETAILED ANALYSIS

Duty to notify law enforcement of handgun possession

Stop of a concealed handgun licensee

Under the bill, if a concealed handgun licensee (CCW licensee) is stopped for a law enforcement purpose and is carrying a concealed handgun, before or at the time a law enforcement officer requests the person's concealed handgun license (CCW license) or asks if the person is carrying a concealed handgun, the person must do both of the following:

- Display the person's CCW license or orally inform the officer that the person has been issued such a license;
- Disclose that the person is carrying a concealed handgun.

Under current law, the person must promptly inform any law enforcement officer who approaches the person after the person has been stopped that the person has been issued a CCW license and that the person is carrying a concealed handgun.¹

Motor vehicle stops – CCW licensee or active duty military member

The bill makes similar revisions to the continuing duty to notify in regards to motor vehicle stops. Under the bill, if a CCW licensee or an active duty military member is in a motor vehicle that is stopped for a traffic or other law enforcement purpose and has a loaded handgun in the vehicle, before or at the time the person's concealed handgun license is requested or the person is asked whether the person is carrying a concealed handgun, the person must do both of the following:

- Display the person's CCW license or documents demonstrating the person is a qualified military member or orally inform the officer that the person has been issued a CCW license or is authorized to carry as a military member;
- Disclose that the person possesses or has a loaded handgun in the vehicle.

The bill imposes a parallel requirement for commercial motor vehicles stopped for a specified purpose by an employee of the State Highway Patrol's motor carrier enforcement unit.

Under current law, the person must promptly inform any law enforcement officer or motor carrier enforcement unit employee who approaches the vehicle while stopped that the

¹ R.C. 2923.12(B)(1) and 2923.126(A).

person has been issued a CCW license or is authorized to carry as an active duty military member and that the person possesses or has a loaded handgun in the vehicle.²

Penalty for failure to comply

The bill eliminates the penalty for a violation of the above duties. Under current law, the penalty is generally a first degree misdemeanor and the licensee's CCW license is generally suspended. But, if the law enforcement officer or motor carrier enforcement unit employee had actual knowledge that the person was a CCW licensee, the penalty is a minor misdemeanor and the license is not suspended.³

Training for school personnel to go armed in a school safety zone

Existing law

Firearms in a school safety zone; exception for certain school personnel

Prohibitions and penalty

Existing law prohibits a person from: (1) knowingly conveying, or attempting to convey, a deadly weapon or dangerous ordnance into a school safety zone, (2) knowingly possessing a deadly weapon or dangerous ordnance in a school safety zone, or (3) knowingly possessing an object in a school safety zone if the object is indistinguishable from a firearm, whether or not the object is capable of being fired, and 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.⁴

A violation of the prohibition described in clause (1) or (2) is the offense of "illegal conveyance or possession of a deadly weapon or dangerous ordnance in a school safety zone," a fourth or fifth degree felony, depending on the circumstances of the offense. A violation of the prohibition described in clause (3) is the offense of "illegal possession of an object indistinguishable from a firearm in a school safety zone," a first degree misdemeanor or fifth degree felony, depending on the circumstances of the offense.⁵

Exceptions for certain school personnel

The law provides several exceptions from the prohibitions, including exceptions, relevant to the bill, stating that they do not apply to: (1) a security officer employed by a board of education or governing body of a school during the time that the security officer is on duty pursuant to that contract of employment, or (2) any other person who has written authorization from the board of education or governing body of a school to convey deadly weapons or dangerous ordnance into a school safety zone or to possess a deadly weapon or

² R.C. 2923.126(A) and 2923.16(E)(1) and (2) and R.C. 5503.34, not in the bill.

³ R.C. 2923.12(F), 2923.128(A), and 2923.16(I).

⁴ R.C. 2923.122(A) to (C), not in the bill.

⁵ R.C. 2923.122(E), not in the bill.

dangerous ordnance in a school safety zone and who conveys or possesses the deadly weapon or dangerous ordnance in accordance with that authorization.⁶

School safety zone definition

As used in these provisions, a “school safety zone” consists of a school, school building, school premises, school activity, and school bus.⁷

Training requirement

Revised Code training provision

Existing law specifies that no public or private educational institution or Superintendent of the State Highway Patrol may employ a person as a special police officer, security guard, or for a similar law enforcement or security position in which such person goes armed while on duty, who has not received a certificate of having satisfactorily completed an approved basic peace officer training program, unless the person has completed 20 years of active duty as a peace officer.⁸ Peace officer basic training is provided by the Ohio Peace Officer Training Commission (OPOTC).

Appellate court decision

A decision of the 12th District Court of Appeals considered the interaction of the Revised Code provision described in the preceding paragraph and the exceptions from the offenses pertaining to firearms in school safety zones that are provided for certain school personnel, described above in “**Exceptions for certain school personnel.**”

Under the facts in the case, a school district, the Madison Local School District, passed a resolution that allowed it to authorize several District employees to carry concealed firearms into the District’s school safety zones. The District claimed authority for this resolution under the statutory provisions described above in “**Exceptions for certain school personnel**” that exclude certain specified school personnel from the offense of possessing a deadly weapon in a school safety zone. The persons the District authorized to carry concealed firearms under its resolution were specified as being approved volunteers employed by the District who were licensed to carry a concealed firearm in Ohio, who had undergone 24 hours of active shooter/killer training, and who had completed and passed a criminal background check, a drug screen, and a mental health evaluation. Erin Gabbard, and several other parents, challenged the legality of the District’s resolution, and asked that the District be barred from implementing the resolution unless the employees completed an approved basic peace officer training program in accordance with the requirement described above in “**Revised Code training provision.**”

⁶ R.C. 2923.122(D)(1), not in the bill.

⁷ R.C. 2901.01(C), not in the bill.

⁸ R.C. 109.78(D).

In its decision, the Court held that the school board-related exceptions in the statutory provisions described above in “**Exceptions for certain school personnel**” do not provide the District with authority to enact a resolution above the clear and unambiguous dictates of the requirement described above in “**Revised Code training provision,**” that the two sets of statutory provisions do not conflict, and that, as a result, it was required to apply the provisions as written. In doing that, the Court held that:⁹

The plain and unambiguous language found in R.C. 109.78(D) makes clear that the Madison Local is prohibited from employing a person as a “special police officer, security guard, or other position in which such person goes armed while on duty” unless that person has either completed an approved basic peace officer training program or has 20 years of active duty as a peace officer.

...

Though the school board may provide written authorization so that an individual is not subject to prosecution under R.C. 2923.122, the school board is still subject to the training requirements mandated by the General Assembly in R.C. 109.78(D) when employing a person as a “special police officer, security guard, or other position in which such person goes armed while on duty.” The express language of the statute does not suggest an intention to allow teachers or staff to carry a firearm while on duty with less training than that indicated in the statute. Rather, the plain language of the statute reveals that a board of education may only employ such persons if they have received significant training or have more than 20 years of experienceShould the legislature want to reduce the amount of training or experience for teachers and staff, it is their legislative prerogative to create such an exception.

...

We are likewise unpersuaded by the designation that the persons authorized to carry concealed firearms under the resolution were “approved volunteers.” The “approved volunteer” designation does not alter the inevitable conclusion that the Madison Local employees are “armed while on duty.” The resulting application is clear. As the teachers and staff members are employed by Madison Local in a position in which they go into

⁹ *Gabbard v. Madison Local School Dist. Bd. of Educ.*, 12th Dist. Butler No. CA2019-03-051, 2020-Ohio-1180.

school “armed while on duty,” Madison Local was obligated to follow the dictates of R.C. 109.78(D), which mandates the training requirements.

Operation of the bill

Nonapplication of training requirement

The bill specifies that the Revised Code provision described above under “**Training requirement**” does not apply with respect to the employment of a person by a board of education or governing body of a school in a position in which the person has been authorized by a school board to voluntarily go armed within a school safety zone within which the board or governing body has authority, if both of the following apply with respect to the employment and person:¹⁰

1. The person will be going armed within a school safety zone within which the board or governing body has authority pursuant to written authorization from the board of education or governing body of the school, as described above in clause (2) under “**Exceptions for certain school personnel**,” to convey deadly weapons into, or to possess a deadly weapon in, a school safety zone within which the board or governing body has authority.
2. The person is not being employed as a special police officer or security officer.

Declaration of legislative intent

The General Assembly declares in the bill that its purpose is to expressly overrule the decision of the Twelfth District Court of Appeals in *Gabbard, supra*, which is described above.¹¹

HISTORY

Action	Date
Introduced	11-26-19
Reported, H. Federalism	06-04-20
Passed House (58-32)	06-11-20
Reported, S. Gov’t Oversight and Reform	---

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¹⁰ R.C. 109.78(D).

¹¹ Section 3.