



OHIO LEGISLATIVE SERVICE COMMISSION

Bill Analysis

Jeff Hobday

H.B. 233

132nd General Assembly
(As Introduced)

Reps. Becker, Antani, Arndt, Blessing, Brenner, Brinkman, Butler, Carfagna, Dean, Dever, Duffey, Faber, Gavarone, Ginter, Goodman, Greenspan, Hagan, Hambley, Henne, Hill, Hood, Householder, Huffman, Keller, Kick, Koehler, Landis, LaTourette, Lipps, McColley, Merrin, Patton, Pelanda, Perales, Rezabek, Riedel, Roegner, Romanchuk, Rosenberger, Schaffer, Scherer, Schuring, Seitz, Slaby, R. Smith, Sprague, Stein, Thompson, Vitale, Wiggam, Young, Zeltwanger

BILL SUMMARY

- Provides that when a concealed handgun licensee or qualified military member is discovered carrying a concealed handgun in a prohibited place or in a prohibited manner, the person is subject to removal, but not guilty of violating the prohibition.
- Expands the offense of disorderly conduct to classify carrying a concealed handgun on premises where concealed carry is prohibited or restricted as a fourth degree misdemeanor if the person refuses to leave upon request or returns to the property with a firearm within 30 days.
- Permits law enforcement or security officers to record a person's appearance with a concealed handgun on a property where concealed carry is prohibited or restricted in order to track recurrent violations of the firearms prohibition.
- Prohibits law enforcement from seizing firearms, accessories, or ammunition when a person is discovered carrying a concealed handgun in a prohibited place or in a prohibited manner, except for the duration of an investigatory stop or upon arrest.
- Removes daycares from the list of places that must post a sign prohibiting weapons, and modifies the sign posting requirements for airports and government buildings.

CONTENT AND OPERATION

Overview

Under the bill, if a concealed handgun licensee or qualified military member is discovered carrying a concealed handgun in a place where carrying a concealed handgun is prohibited or restricted, the person is subject to removal from the property, but is not guilty of violating the firearms prohibition. The bill prohibits law enforcement from seizing a concealed handgun licensee's or qualified military member's firearms, accessories, or ammunition, except for the duration of an investigative stop, presuming the person is not guilty of any other offense. If the person fails to leave upon request or returns with a concealed handgun within thirty days in violation of the firearms prohibition, the person is guilty of disorderly conduct, classified as a fourth degree misdemeanor.

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 certain eligibility criteria. A person who is issued a concealed handgun license is authorized to carry a concealed handgun in most places; however, the law specifically states that carrying in certain places is prohibited and there are restrictions on the manner of carrying a concealed handgun.¹ An active duty member of the U.S. armed forces who 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 has the same right to carry a concealed handgun as a licensee and is subject to the same restrictions.² The bill creates the defined term "qualified military member" to refer to such persons.³

Exemptions from certain criminal offenses involving concealed handguns

The bill expands exemptions in certain criminal offenses that apply to a concealed handgun licensee or qualified military member. Under the bill, a licensee or qualified military member is subject to removal but is not guilty of any of the following offenses by virtue of being discovered carrying a concealed handgun in a prohibited place or in a prohibited manner:⁴

- (1) Carrying concealed weapons;

¹ R.C. 2923.12 to 2923.25.

² R.C. 2923.126(E)(2).

³ R.C. 2923.11(S).

⁴ R.C. 2923.12(F)(4), 2923.121(E)(2), 2923.122(E)(1)(b), 2923.123(D)(3), and 2923.126(C)(3).



- (2) Illegal possession of a firearm in a liquor permit premises;
- (3) Illegal conveyance or possession of a deadly weapon or dangerous ordnance in a school safety zone;
- (4) Illegal conveyance of a deadly weapon or dangerous ordnance into a courthouse;
- (5) Criminal trespass in violation of a sign prohibiting weapons posted on private property or aggravated trespass in violation of a sign posted on the premises of a day – care center.

Additionally, under the bill, a concealed handgun licensee or qualified military member who is discovered carrying a concealed handgun onto land or premises in violation of a posted sign as described in (5) above is not subject to a civil cause of action for trespass based on the violation.⁵

No seizure of handguns, ammunition, or accessories

If a concealed handgun licensee or qualified military member carries a concealed handgun in a prohibited place or in a prohibited manner but qualifies for one of the exemptions described above, the bill prohibits a law enforcement officer from seizing or authorizing the seizure of the person's handgun, ammunition, or accessories based on that conduct, except for the duration of an investigative stop.⁶ Under continuing law, if a law enforcement officer stops a person to question the person for carrying concealed weapons, for a traffic stop, or for any other law enforcement purpose, if the person surrenders a firearm to the officer, and if the officer does not charge or arrest the person for any offense, the person is not otherwise prohibited by law from possessing the firearm, and the firearm is not contraband, the officer must return the firearm once the stop ends.⁷

Disorderly conduct

Under the bill, a concealed handgun licensee or qualified military member is guilty of disorderly conduct if the person is discovered carrying a concealed handgun in a place where firearms are prohibited or in a prohibited manner and the person does either of the following:⁸

⁵ R.C. 2923.126(C)(3)(c).

⁶ R.C. 2923.12(F)(4), 2923.121(E)(2), 2923.122(E)(1)(b), 2923.123(D)(3), and 2923.126(C)(3).

⁷ R.C. 2923.12(G).

⁸ R.C. 2917.11(C)(1).



(1) Refuses or fails to leave the land or premises upon being requested to do so by the owner, lessee, or person in control of the land or premises or by the individual's agent or employee;

(2) Returns within 30 days to the same land or premises while knowingly in possession of a firearm in a place where firearms are prohibited or restricted.

The bill permits a law enforcement officer or security officer to record any violation of the prohibition described above to determine whether the person has entered the same land or premises more than once within 30 days while knowingly in possession of a firearm in a place where firearms are prohibited or restricted.⁹

The form of disorderly conduct created by the bill is a fourth degree misdemeanor, punishable by up to 30 days in jail and a fine of \$250 or less.¹⁰

Places required to post signage prohibiting weapons

The bill modifies the list of persons who must post a sign prohibiting weapons on the premises to reflect changes in the Concealed Handgun Law made by Am. Sub. S.B. 199 of the 131st General Assembly. More specifically, the bill removes from the list an owner, administrator, or operator of a child day care center, a type A family day care home, or a type B family day care home. Also, instead of requiring signs to be posted at each airport facility, the bill requires signs to be posted in a conspicuous location at each airport passenger or screening checkpoint and wherever access is restricted through security measures by the airport authority or a public agency. Finally, government facilities are exempted from the posting requirement if the governing body with authority over the building has enacted a statute, ordinance, or policy that permits a licensee to carry a concealed handgun into the building.¹¹

DEFEND Act

The bill states that the act is to be known as the "Decriminalization Effort For Ending Notorious Deaths (DEFEND)."¹²

⁹ R.C. 2917.11(C)(2).

¹⁰ R.C. 2917.11(F)(4).

¹¹ R.C. 2923.1212(A).

¹² Section 3.



HISTORY

ACTION

DATE

Introduced

05-18-17

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