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H.B. 178
133rd General Assembly

Bill Analysis

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Version: As Reported by House Federalism

Primary Sponsors Reps. Hood and Brinkman

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SUMMARY

- Modifies the name “concealed handgun license” to “concealed weapons license.”
- Allows a person who is 21 or older and who is not prohibited under Ohio or federal law from having a firearm to carry a concealed deadly weapon, other than a restricted deadly weapon, without obtaining a concealed weapons license.
- Permits a person who has a concealed weapons license to carry concealed any deadly weapon, other than a restricted deadly weapon, instead of only a handgun.
- Defines a “restricted deadly weapon” as a deadly weapon that is a restricted firearm or that Ohio or federal law prohibits the person from having or carrying.
- Defines a “restricted firearm” as a firearm that is dangerous ordnance or that Ohio or federal law prohibits the person from having or carrying.
- Eliminates the requirement that a concealed weapons licensee must carry a concealed weapons license in order to carry a concealed deadly weapon, other than a restricted deadly weapon.
- Eliminates requirements that a concealed handgun licensee or qualified military member notify a law enforcement officer or motor carrier enforcement unit employee that the person is authorized to carry a concealed handgun and is then carrying a handgun when stopped.
- Permits expungement of convictions based on failure to comply with the notification requirements described in the preceding dot point.
- Specifies that the mere fact that an otherwise law-abiding person carries or possesses a deadly weapon, other than a restricted deadly weapon, does not constitute grounds for any law enforcement officer or agent of the state or a local government to search, seize, or detain the person, no matter how temporarily.

- Expands state preemption of firearms regulation to include deadly weapons and firearm accessories and attachments, instead of only firearms, their components, and their ammunition.
- Specifies that if a person, board, or entity that owns or controls a place of worship or a government facility does not post a sign prohibiting carry of a deadly weapon, it is presumed that concealed carry of a deadly weapon is permitted.

DETAILED ANALYSIS

Elimination of concealed weapons license requirement

The bill permits a person who is 21 or older and who is not prohibited under Ohio or federal law from having a firearm to carry a concealed deadly weapon, other than a restricted deadly weapon, without obtaining a concealed weapons license (formerly “concealed handgun license”). (See “**Concealed weapons licenses**,” below.) The bill specifies that a person who does so must be deemed to have a concealed weapons license, unless the context clearly indicates otherwise.¹

As a result, the bill allows the following categories of persons who are not eligible for a concealed weapons license to carry a concealed deadly weapon:²

- A person who is currently being charged with a felony, a misdemeanor drug offense, a misdemeanor offense of violence, negligent assault, or falsification of a concealed weapons license;
- A person who has been convicted of a misdemeanor drug offense or misdemeanor assault of a peace officer;
- A person who, within the past ten years, has been convicted of misdemeanor resisting arrest;
- A person who, within the past five years, has been convicted of two or more counts of misdemeanor assault or negligent assault;
- A person who, within the past three years, has been convicted of falsification of a concealed weapons license or of any misdemeanor offense of violence other than resisting arrest, assault of a peace officer, or domestic violence;
- A person whose concealed weapons license is suspended because the person was convicted of a specified misdemeanor offense involving an interaction with law enforcement;
- A person who has not completed the required competency certification;

¹ R.C. 2923.11(N)(2), 2923.111, and 2923.12.

² R.C. 2923.125(D)(1), 2923.13(A), and 18 U.S.C. 922(g).

- A person who is not a resident of Ohio or employed in Ohio.

Under the bill, a person who carries a concealed deadly weapon without a license is subject to the same rights and restrictions that apply to a person who has a concealed weapons license, including the continuing list of locations in which a person may not carry a concealed deadly weapon and the continuing requirements concerning the person's conduct with respect to a law enforcement officer while the person is carrying a concealed deadly weapon.³

If the person later is banned by Ohio or federal law from possessing or receiving a firearm, the person is no longer eligible to carry concealed in Ohio and the person is no longer deemed to have been issued a concealed weapons license.⁴

Concealed weapons licenses

The bill allows a person who has a concealed weapons license to carry any concealed deadly weapon, other than a restricted deadly weapon, instead of only a handgun. (See "**Weapons that may be carried concealed**," below.) The bill changes the name of the license from "concealed handgun license" to "concealed weapons license."⁵

Under the bill, a concealed weapons license or a license to carry a concealed weapon is any of the following:⁶

- A license or temporary emergency license issued on or after the effective date of the act that authorizes the licensee to carry a concealed deadly weapon, other than a restricted deadly weapon;
- A license or temporary emergency license to carry a concealed handgun issued prior to the effective date of the act that authorized the licensee to carry a concealed handgun and that, on or after the effective date of the act, authorizes the licensee to carry a concealed deadly weapon, other than a restricted deadly weapon;
- A license issued by another state with which the Attorney General has entered into a reciprocity agreement that authorizes the licensee to carry a concealed handgun, firearm, or deadly weapon.

The provisions of the bill apply to a concealed weapons license, a temporary emergency license, or a license issued by another state, regardless of whether the license was issued, renewed, suspended, revoked, denied, or expired before, on, or after the bill's effective date.⁷

³ R.C. 1547.69, 2923.11(N)(2), 2923.111, 2923.12, 2923.121, 2923.122, 2923.123, 2923.124(D), 2923.126, and 2923.16.

⁴ R.C. 2923.111(C)(2).

⁵ R.C. 109.69, 109.731, 311.41, 311.42, 311.43, 1547.69, 2921.13, 2923.11, 2923.12, 2923.121, 2923.122, 2923.123, 2923.124, 2923.125, 2923.126, 2923.127, 2923.128, 2923.129, 2923.1210, 2923.1211, 2923.1213, 2923.16, and 2953.37.

⁶ R.C. 2923.11(N)(1) and (O).

Weapons that may be carried concealed

Under the bill, a person who has a concealed weapons license or a person who qualifies to carry a concealed deadly weapon without a license may carry any concealed deadly weapon that is not a “restricted deadly weapon.”⁸ The bill defines a “restricted deadly weapon” as a deadly weapon that is a restricted firearm or that Ohio or federal law prohibits the person from having or carrying. The bill defines a “restricted firearm” as a firearm that is dangerous ordnance or that Ohio or federal law prohibits the person from having or carrying.⁹

Continuing law defines “dangerous ordnance” to mean any of the following:¹⁰

- An automatic or sawed-off firearm, zip-gun, or ballistic knife;
- Any explosive device or incendiary device;
- Any of a list of specified explosives;
- Specified military-type weapons such as rocket launchers, mortars, grenades, or torpedoes, and ammunition for those weapons;
- A firearm muffler or suppressor;
- Any combination of parts intended by the owner for use in converting a firearm or other device into dangerous ordnance.

“Dangerous ordnance” does not include any of the following:¹¹

- A firearm that employs an obsolete ignition system or that may be used only with black powder;
- A pistol, rifle, or shotgun, other than an automatic or sawed-off firearm, that is designed or suitable for sporting purposes, and its ammunition;
- Any pre-1887 style artillery piece that meets specified criteria and items used to fire it in certain circumstances;
- Smokeless and black powder, primers, and percussion caps used as a propellant or ignition device in small-arms or small-arms ammunition;
- Inoperable or inert dangerous ordnance that satisfies specified criteria;

⁷ R.C. 109.69, 109.731, 311.41, 311.42, 2921.13, 2923.11, 2923.124, 2923.125, 2923.126, and 2923.1213.

⁸ R.C. 2923.126(A) and (B) and 2923.1213.

⁹ R.C. 2923.11(S) and (T).

¹⁰ R.C. 2923.11(K).

¹¹ R.C. 2923.11(L).

- Any device expressly excepted from the definition of a destructive device pursuant to the federal Gun Control Act of 1968;
- Any firearm with an overall length of at least 26 inches that is approved for sale by the Federal Bureau of Alcohol, Tobacco, Firearms, and Explosives under the Gun Control Act of 1968, but that is found by the Bureau not to be regulated under the National Firearms Act.

Eliminates requirement that a concealed weapons licensee must carry a license

The bill eliminates the requirement that a concealed weapons licensee must carry a concealed weapons license in order to carry a concealed deadly weapon, other than a restricted deadly weapon. Under current law, a concealed handgun licensee may carry a concealed handgun if the licensee also carries a valid concealed handgun license when the licensee is in actual possession of the concealed handgun.¹²

Eliminates certain notification requirements

The bill eliminates the requirement that a concealed handgun licensee (under the bill a “concealed weapons licensee”) must promptly notify a law enforcement officer when stopped that the person is a licensee and is then carrying a concealed handgun.¹³ The bill eliminates a similar requirement that a licensee or qualified military member who is the driver or occupant of a motor vehicle notify an officer when stopped for a traffic violation or other law enforcement purpose that the person is authorized to carry a concealed handgun and is then carrying a handgun.¹⁴ Additionally, the bill eliminates the requirement that a licensee or qualified military member who is a driver or occupant of a commercial motor vehicle notify an employee of the motor carrier enforcement unit when stopped that the person is a licensee or authorized to carry a concealed handgun and has a loaded handgun in the vehicle.¹⁵

In eliminating the notification requirements described above, the bill also removes the criminal penalties associated with failure to follow those requirements. Under current law, a violation of the notification requirements is generally a first degree misdemeanor and results in suspension of the licensee’s concealed handgun license unless the law enforcement officer had actual knowledge that the person was a licensee, in which case the violation is a minor misdemeanor and the license is not suspended.¹⁶

¹² R.C. 1547.69(H)(2), 2923.12(C)(2), 2923.121(B)(1)(d) and (e), 2923.122(D)(3), 2923.123(C)(6), 2923.126(A), and 2923.16(F)(5) and (L).

¹³ R.C. 2923.12(B)(1) and 2923.126(A).

¹⁴ R.C. 2923.126(A) and 2923.16(E)(1).

¹⁵ R.C. 2923.126(A) and 2923.16(E)(2).

¹⁶ R.C. 2923.12(F)(3), 2923.128, and 2923.16(I).

Under the bill, a person who has been convicted of or pleaded guilty to a violation of the notification requirements as they existed prior to the bill's effective date may request that records related to that conviction be expunged. Under continuing law, the person seeking expungement must apply to the sentencing court for the expungement of the record of conviction.¹⁷

Search, seizure, or detention of a person carrying a deadly weapon

The bill specifies that the mere fact that an otherwise law-abiding person carries or possesses a deadly weapon, other than a restricted deadly weapon, does not constitute grounds for any law enforcement officer or agent of the state or a local government to search, seize, or detain the person, no matter how temporarily. This provision applies to a person who has a concealed weapons license or to a person who is exempt under the bill from being required to obtain a license.¹⁸

State preemption

The bill expands state preemption of firearms regulation to include deadly weapons and firearm accessories and attachments. Under current law, state preemption of firearms regulation only includes firearms, their components, and their ammunition.

The expansion of state preemption applies to both of the following:¹⁹

- The General Assembly's need to regulate the ownership, possession, purchase, other acquisition, transport, storage, carrying, sale, other transfer, manufacture, taxation, keeping, and reporting of loss or theft of deadly weapons, including firearms and their components, accessories, attachments, and ammunition.
- Except as otherwise provided by the United States Constitution, the Ohio Constitution, state law, or federal law, the right of a person, without further license, permission, restriction, delay, or process, including by any ordinance, rule, regulation, resolution, practice, or other action or threat of citation, prosecution, or other legal process, to own, possess, purchase, acquire, transport, store, carry, sell, transfer, manufacture, keep, or legitimately use deadly weapons, including firearms and their components, accessories, attachments, and ammunition.

Under current law, certain zoning ordinances are exempt from state preemption. The expansion of state preemption also applies to those exempt zoning ordinances as follows:²⁰

¹⁷ R.C. 2923.12(E)(2), 2923.16(H)(2), and 2953.37.

¹⁸ R.C. 2923.111(B).

¹⁹ R.C. 9.68(A) and (C).

²⁰ R.C. 9.68(D).

- A zoning ordinance that regulates or prohibits the commercial sale of deadly weapons, including firearms, their components, and their ammunition, in areas zoned for residential or agricultural use.
- A zoning ordinance that specifies the hours of operation or the geographic areas where the commercial sale of deadly weapons, including firearms, their components, and their ammunition, may occur, provided that the zoning ordinance is consistent with zoning ordinances for other retail establishments in the same geographic area and does not result in a de facto prohibition of the commercial sale of deadly weapons, including firearms, their components, and their ammunition.

The bill amends the current version of R.C. 9.68 and the version of R.C. 9.68 that is scheduled to take effect on December 28, 2019, to continue the provisions of the act on or after that effective date.²¹

Posting signs prohibiting carry of a deadly weapon

The bill provides that if a person, board, or entity that owns or controls a place of worship or a government facility, as a place that may permit a licensee to carry a concealed deadly weapon, does not post a sign prohibiting carry of a deadly weapon as described below, it is presumed that the person, board, or entity permits the licensee to carry a concealed deadly weapon on the premises.

Under current law, a person, board, or entity that owns or controls a specified place or premises, as a place into which a valid license does not authorize a licensee to carry a concealed handgun, must post in one or more conspicuous places 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.”²²

Conforming and related changes

Numerous provisions of law, which the bill does not change, restrict the places and manner in which a person may possess a deadly weapon. The bill modifies those provisions to refer to persons who may carry a concealed deadly weapon without obtaining a license and to refer to the expanded types of weapons that may be carried concealed.²³

²¹ Sections 3 to 5.

²² R.C. 2923.126(B) and 2923.1212.

²³ R.C. 109.69, 109.731, 311.41, 311.42, 1547.69, 2921.13, 2923.11, 2923.12, 2923.121, 2923.122, 2923.123, 2923.124, 2923.125, 2923.126, 2923.128, 2923.129, 2923.1210, 2923.1212, 2923.1213, 2923.16, and 4749.10.

For example, the bill modifies the following continuing provisions of law to correspond to the elimination of the concealed weapons license requirement and the expansion of the categories of deadly weapons that may be carried concealed:

- The requirements that apply to a person who is carrying a concealed deadly weapon when the person is stopped for a law enforcement purpose, such as the requirements to keep the person’s hands in plain sight and to refrain from touching the firearm;²⁴
- The ability of a person to have a deadly weapon in a school safety zone, provided that the person follows certain continuing requirements, such as not entering the school building or premises;²⁵
- The law that permits a person to bring a deadly weapon into a courthouse, so long as the person leaves the deadly weapon with the officer in charge of the building;²⁶
- The requirement that a landlord permit a tenant and the tenant’s guests to have deadly weapons on the premises.²⁷

History

Action	Date
Introduced	03-29-19
Reported, H. Federalism	06-26-19

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²⁴ R.C. 2923.12, 2923.126, and 2923.16.

²⁵ R.C. 2923.122.

²⁶ R.C. 2923.123.

²⁷ R.C. 2923.126(C)(3).