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OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
and Drafting

Legislative Budget
Office

S.B. 223
133rd General Assembly

Bill Analysis

Version: As Introduced

Primary Sponsors: Sens. Thomas and Lehner

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SUMMARY

- Prohibits certain conduct regarding trigger cranks, bump-fire devices, and other items that accelerate a semi-automatic firearm's rate of fire but do not convert it into an automatic firearm and makes a violation of the prohibition the offense of "illegal rate-of-fire acceleration conduct."
- Prohibits certain conduct regarding large capacity magazines for firearms (specified items involving more than 15 rounds of ammunition for a handgun or more than 20 rounds of ammunition for any other firearm) and makes a violation of the prohibition the offense of "unlawful possession of a large capacity magazine."
- Includes a conviction or delinquent child adjudication for a violation of either of the new prohibitions described in the two preceding dot points as a disability that subjects the person to the prohibition under the offense of "having weapons while under disability."
- Specifies that if a person who is prohibited from acquiring, having, carrying, or using firearms obtains court relief from the prohibition, the relief is automatically void upon the person's violation of either of the new prohibitions described in the second and third preceding dot points.

DETAILED ANALYSIS

Offense of "illegal rate-of-fire acceleration conduct"

The bill enacts a prohibition in the Weapons Law that, on and after the date that is 180 days after the bill's effective date, prohibits a person from importing, manufacturing, selling, transferring, or possessing a trigger crank, a bump-fire device, or any part, combination of parts, component, device, attachment, or accessory that is designed or functions to accelerate

the rate of fire of a semi-automatic firearm but not convert the semi-automatic firearm into an automatic firearm (see **COMMENT**). A violation of the prohibition is the offense of “illegal rate-of-fire acceleration conduct,” a fourth degree felony.¹

The prohibition does not apply with respect to the importation for, manufacture for, sale to, transfer to, or possession of any item specified in the preceding paragraph by or under authority of the United States or any department or agency of the United States or by Ohio, any other state, or a department, agency, or political subdivision of Ohio or any other state.²

Offense of “unlawful possession of a large capacity magazine”

Prohibition, penalty, and exemptions

The bill enacts a prohibition in the Weapons Law that, on and after the date that is 180 days after the bill’s effective date, prohibits a person from knowingly possessing, purchasing, keeping for sale, offering or exposing for sale, transferring, distributing, or importing a “large capacity magazine.” A violation of the prohibition is the offense of “unlawful possession of a large capacity magazine,” a fourth degree felony.³

The prohibition does not apply to any of the following:⁴

1. Officers, agents, or employees of the United States, Ohio or any other state, or a political subdivision of Ohio or any other state, members of the U.S. armed forces or the organized militia of Ohio or any other state, and law enforcement officers to the extent that the officer, agent, employee, or member is authorized to possess, purchase, keep for sale, offer or expose for sale, transfer, distribute, or import large capacity magazines and is acting within the scope of the officer’s, agent’s, employee’s, or member’s duties;
2. Importers, manufacturers, and dealers of large capacity magazines that are licensed under the federal “Gun Control Act of 1968” and any amendments or additions to it or reenactments of it;
3. Carriers, warehouses, and others engaged in the business of transporting or storing firearms for hire, with respect to large capacity magazines lawfully transported or stored in the usual course of business and in compliance with the laws of Ohio and applicable federal law.

Definition of “large capacity magazine”

The bill provides that, for purposes of the new offense of “unlawful possession of a large capacity magazine,” a “large capacity magazine” is any magazine, belt, drum, feed strip, or similar device that has the capacity of, or can be readily restored or converted to accept, either

¹ R.C. 2923.133(A) and (C).

² R.C. 2923.133(B).

³ R.C. 2923.191(B) and (D).

⁴ R.C. 2923.191(C).

more than 15 rounds of ammunition for a handgun or more than 20 rounds of ammunition for any other firearm. “Large capacity magazine” does not mean any feeding device that has been permanently altered so that it cannot accommodate more than 10 rounds of ammunition, any .22 caliber tube ammunition feeding device, any tubular magazine that is contained in a lever-action firearm, or any magazine that is permanently inoperable.⁵

Offense of “having weapons while under disability” and relief from disability

Offense of “having weapons while under disability”

The bill specifies that a conviction or delinquent child adjudication for a violation of the prohibition under the bill’s offense of “illegal rate-of-fire acceleration conduct” or the prohibition under its offense of “unlawful possession of a large capacity magazine,” both as described above, is a disability that disqualifies the person from certain firearm-related or dangerous ordnance-related conduct under the existing offense of “having weapons while under disability.” The prohibition under that offense prohibits a person, unless relieved from disability under operation of law or legal process, from knowingly acquiring, having, carrying, or using any firearm or dangerous ordnance if any of five specified disabilities apply. A violation of the prohibition is the offense of “having weapons while under disability,” a third degree felony. The bill adds a conviction or delinquent child adjudication for a violation of the prohibition under the bill’s offense of “illegal rate-of-fire acceleration conduct” as a sixth disability, and a conviction or delinquent child adjudication for a violation of the prohibition under the bill’s offense of “unlawful possession of a large capacity magazine” as a seventh disability, with respect to which the prohibition will apply.⁶

The five currently specified disabilities with respect to which the prohibition applies, unchanged by the bill, are that the person in question: (1) is a fugitive from justice, (2) is under indictment for or has been convicted of or adjudicated a delinquent child for committing a felony offense of violence, (3) is under indictment for or has been convicted of or adjudicated a delinquent child for committing a felony drug abuse offense of a specified nature, (4) is drug dependent, in danger of drug dependence, or a chronic alcoholic, or (5) is under adjudication of mental incompetence, has been adjudicated as a mental defective, has been committed to a mental institution, has been found by a court to be a mentally ill person subject to court order, or is an involuntary patient other than one only under observation.⁷

⁵ R.C. 2923.191(A).

⁶ R.C. 2923.13(A) and (B).

⁷ R.C. 2923.13(A)(1) to (5).

Relief from disability

Operation of the bill

Existing law, unchanged by the bill except as described in this paragraph, contains a mechanism (described below) pursuant to which a person who is prohibited from acquiring, having, carrying, or using firearms may apply to a specified court for relief from the prohibition. The mechanism is not available to persons in any of a few specified categories. Under the mechanism, if the court makes specified findings, it may grant the requested relief. Currently, if relief from disability is granted under the mechanism, the relief is automatically void upon commission by the applicant of any offense, or inclusion by the applicant in any category, that puts the person in any of the five disabilities with respect to which the prohibition under the offense of “having weapons while under disability” currently applies, as described above. Regarding the bill’s offense of “illegal rate-of-fire acceleration conduct” and its offense of “unlawful possession of a large capacity magazine,” both as described above, and the relief mechanism:⁸

1. The bill does not make the relief mechanism unavailable to a person who is prohibited from acquiring, having, carrying, or using firearms based on a conviction of either of those offenses;
2. The bill expands the “automatic voiding” provision described above so that, in addition to the situations that currently result in automatic voiding of relief from disability granted under the mechanism, the relief also is automatically void upon commission by the applicant of either of those offenses.

Relief mechanism

Under existing law, unchanged by the bill except with respect to the “automatic voiding” provision change described above under “**Operation of the bill**,” a person who is prohibited from acquiring, having, carrying, or using firearms may apply to the common pleas court in the county in which the person resides for relief from the prohibition. This relief mechanism does not apply to a person who has been convicted of the offense of “unlawful use of a weapon by a violent career criminal”⁹ or who, two or more times, has been convicted of a felony and any of six designated firearms specifications (e.g., the person had, brandished, or used a firearm, had an automatic firearm, or had a firearm equipped with a muffler or silencer while committing the felony; discharged a firearm from a motor vehicle or at a peace officer; or possessed a firearm as a violent career criminal while committing a violent felony; etc.).¹⁰ The application must include specified information regarding the applicant’s fitness for relief and the basis of the applicant’s disability. The prosecutor is served with a copy of and may object to

⁸ R.C. 2923.14(A)(2) and (F)(4).

⁹ R.C. 2923.132, not in the bill.

¹⁰ R.C. 2941.141, 2941.144, 2941.145, 2941.146, 2941.1412, and 2941.1424, not in the bill.

the application, and the court conducts a hearing on it. The court may grant the applicant relief from the prohibition if it makes specified findings at the hearing.

Relief from disability granted under the mechanism restores the applicant to all civil firearm rights to the full extent enjoyed by any citizen, and it applies only with respect to the factor that was the basis for the applicant's disability; applies only with respect to firearms lawfully acquired, possessed, carried, or used by the applicant; and may be revoked by the court at any time for good cause shown and upon notice to the applicant. Additionally, as described above under "**Operation of the bill**," the relief from disability is automatically void upon the person's commission of any offense or inclusion in any category that puts the person in any of the disabilities with respect to which the prohibition under the offense of "having weapons while under disability" currently applies, as expanded by the bill and described above under "**Operation of the bill**."¹¹

COMMENT

The U.S. Bureau of Alcohol, Tobacco, Firearms, and Explosives states the following on its website, as of September 16, 2019:

"On December 18, 2018, Acting Attorney General Matthew Whitaker announced that the Department of Justice has amended the regulations of the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF), clarifying that bump stocks fall within the definition of "machinegun" under federal law, as such devices allow a shooter of a semiautomatic firearm to initiate a continuous firing cycle with a single pull of the trigger.

The rule will go into effect March 26, 2019, 90 days from the date of publication in the Federal Register.

The final rule clarifies that the definition of "machinegun" in the Gun Control Act (GCA) and National Firearms Act (NFA) includes bump-stock-type devices, i.e., devices that allow a semiautomatic firearm to shoot more than one shot with a single pull of the trigger by harnessing the recoil energy of the semiautomatic firearm to which it is affixed so that the trigger resets and continues firing without additional physical manipulation of the trigger by the shooter.

Current possessors of bump-stock-type devices must divest themselves of possession as of the effective date of the final rule (March 26, 2019)."¹²

¹¹ R.C. 2923.14.

¹² <https://www.atf.gov/rules-and-regulations/bump-stocks>.

HISTORY

Action	Date
Introduced	10-16-19
