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Current Legal Issues with Weapons in the Workplace

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The law in the State of Ohio is well settled that property owners enjoy dominion and control over their property, “including the power . . . to admit people to the premises and exclude them from the premises.” Cooper v. Roose, 151 Ohio St. 316, 323 (1949). This power includes the right to exclude armed individuals from their property. Two statutes have in recent years changed the complexion of these legal issues: Ohio Rev. Code § 2923.123 which enacted Ohio’s first comprehensive licensing scheme governing the carrying of concealed handguns, and Ohio Rev. Code § 9.68, a statute that acted to nullify all municipal laws related to firearms possession. For most private property owners and all private employers, these statutes provide flexibility to permit the concealed carry of weapons onto their premises, with the promise of immunity from responsibility for actions that occur as a result of that decision, to denying the carrying of concealed or open weapons on their premises with the posting of a conspicuous notice to that effect. For public employers and property owners, including universities, the landscape is less clear. A variety of exceptions to the right to carry a concealed weapon are included in the statute. But a growing body of case law is clarifying that municipalities are no longer able to regulate the possession of firearms on public property in conflict with the statutes. The question remains open whether the current statutory scheme is applicable to the State itself.

One thing that is not unclear is the extent to which weapons in the workplace are a focus of employers for risk reduction and litigation protection. The framework of litigation that surrounds such cases, from harassment and wrongful termination to negligent hire or retention continue to grow. The following is a summary of the significant workplace violence/Weapons cases in Ohio the past year.

I. Wrongful Termination

Gary Plona v. UPS, No.08-3512, (CA 6, 2009), Plona was an employee of UPS who brought a firearm to the parking lot where he worked and left it locked in his car. When UPS conducted a routine sweep of the parking lot and determined that Plona had a weapon in his car, in violation of UPS policy, he was terminated. Plona sued alleging a termination in violation of public policy. The Sixth Circuit held that Ohio did not have a clear public policy supporting the right to bear arms in a private employer’s parking lot. Citing Ohio Rev. Code § 2923.126, the Court stated that the specific language of the statute provided that private employers are not
compelled to permit weapons on their property. This case arose prior to the enactment of Ohio Rev. Code § 9.68, however the analysis seems to support that this decision would be the same even considering the statute.

II. Other Legal Issues

A. Negligent retention.

Plaintiffs can bring a cause of action for negligent hire or negligent retention that implicate individuals with a history of poor behavior and access to weapons. In a recent decision of the Tenth District Court of Appeals, the court addresses the elements of these claims in the harassment context.

Chapa v. Genpak, LLC, 2014 Ohio 897 (Ohio App. 2014). The court states the elements of negligent hire or retention as “(1) the existence of an employment relationship; (2) the employee’s incompetence; (3) the employer’s actual or constructive knowledge of such incompetence; (4) the employer’s act or omission causing plaintiff’s injuries; and (5) the employer’s negligence in hiring or retaining the employee as the proximate cause of plaintiff’s injuries.” Peterson at 729, citing Evans v. Ohio State Univ., 112 Ohio App. 3d 724, 739 (10th Dist. 1996). See also Wagner v. Ohio State Univ. Med. Ctr., 188 Ohio App. 3d 65, 2010-Ohio-2561, ¶ 29 (10th Dist.). The elements of a negligent supervision claim are the same as those for a claim alleging negligent hiring or retention. Browning v. OSHP, 151 Ohio App. 3d 798, 2003-Ohio-1108, ¶ 67 (10th Dist.), citing Harmon v. GZK, Inc., 2d Dist. No. 18672, 2002-Ohio-545, citing Peterson at 729. The foreseeability aspect of a negligent supervision claim is also similar. Browning at ¶ 67.

According to the Tenth District, “negligent retention and supervision are negligence-based torts which require proof of the basic elements of negligence: duty, breach, proximate cause, and damages.” Abrams v. Worthington, 169 Ohio App.3d 94, 2006-Ohio-5516, ¶ 15 (10th Dist.). The existence of a duty in a negligent retention case depends on the foreseeability of injury to the plaintiff. Id. at ¶ 15, citing Jeffers v. Olexo, 43 Ohio St. 3d 140, 142 (1989); Wagner at ¶ 23. The existence of an employer-employee relationship imposes a duty upon the employer to prevent foreseeable injury to others by exercising reasonable care to refrain from employing an incompetent employee. Abrams at ¶ 16.

Important for workplace violence cases, the Court also finds that the element of “foreseeability of a criminal act depends upon the knowledge of the defendant, which must be determined by the totality of the circumstances, and it is only when the totality of the circumstances are ‘somewhat overwhelming’ that the defendant will be held liable.” Wagner at ¶ 23; Staten v. Ohio Exterminating Co., Inc., 123 Ohio App. 3d 526, 530 (10th Dist.1997), quoting Evans at 742, citing Feichtner v. Cleveland, 95 Ohio App. 3d 388, 396, (8th Dist.1994).


B. OSHA regulations.

OSHA obligates employers to provide a workplace that is safe. Although the Agency has issued a statement of neutrality regarding weapons in the workplace and the numerous state laws permitting it, the obligation of an employer to maintain a safe working environment continues to exist even in the face of that permission.
III. Weapons Possession on Public College/University Campuses in Ohio

The 2004 enactment of Ohio’s concealed carry statute ushered in a new era of gun control discussion in the State. For public institutions of higher education the law has been a tricky and emotional issue with many administrators believing that the allowance of guns on university campuses is an inherently dangerous incursion into the academic environment and one that should be excepted from the law. Some advocates of the law, on the other hand, continue to believe that the current law doesn’t go far enough to permit students, faculty, alumni and visitors to university campuses to protect themselves. What follows here is a summary of the relatively light case law associated with the concealed carry statute as it relates to universities.

A. The statutes.


Ohio Rev. Code § 2923.126 license expiration; notice to law enforcement upon stop; prohibited places; effect on private employers; immunity; signage; reciprocity. Effective April 8, 2004; amended January 1, 2014.

The concealed handgun law provides for licensing of individuals who choose to carry a concealed weapon. The statute provides for carve outs for licensed concealed carry in several locations, including “a school safety zone,” “child day care center,” and “any premises owned or leased by any public or private college, university, or other institution of higher education, unless the handgun is in a locked motor vehicle or the licensee is in the immediate process of placing the handgun in a locked motor vehicle.”

a. The statute does not require private employers to permit concealed carry on their property.
b. Exceptions exist for peace officers, including retired peace officers.
c. Private employers and political subdivisions are immune from liability when they choose to permit concealed carry under the statute.


In 2007 the general assembly acted to clarify the extent of the 2004 law. The statute provides that the concealed carry statute preempts local laws enacted to regulate guns, including concealed carry, in other parts of the State.

The statute first recognizes that “the individual right to keep and bear arms” is a fundamental right. It then states that the general assembly needs to “provide uniform laws throughout the state regulating the ownership, possession, purchase . . . transport, storage, carrying, . . . of firearms.”

Finally the statute provides that except for those regulations duly enacted by law, “a person, without further license, permission, restriction . . . may own . . . or keep any firearm.”

B. The Supreme Court of Ohio.

In Klein v. Leis, 99 Ohio St. 3d 537 (Sept. 24, 2003) the Court determined that although the right to bear arms is fundamental and clearly established, that there is no constitutional right to carry a concealed weapon. Since the enactment of Ohio Rev. Code § 2923.126, the Supreme Court of Ohio has ruled on several key cases defining the reach of the law and interpreting the restrictions.

The owner of a semi-automatic gun was charged with violation of a city ordinance that made possession of the weapon illegal. The State law prohibited a certain type of semi-automatic weapon from possession by the general public. The city ordinance was more restrictive of the type of semi-automatic weapon. The Court ruled that the difference in definition did not render the ordinance invalid because both laws could exist without conflict. Speaking for a split majority, Justice Resnick opined that the Cincinnati ordinance was not in conflict with the State statute defining a semi-automatic weapon because the State statute did not fully preempt the lawful regulation of possession of certain weapons, thereby making the municipal regulations a valid exercise of home rule authority. *Canton v. State*, 95 Ohio St.3d 149 (2002).

*Canton* four-part test for determining whether a law is a general law: in order for a law to be a general law for purposes of home-rule analysis a statute must: (1) be part of a statewide and comprehensive legislative enactment, (2) apply to all parts of the state alike and operate uniformly throughout the state, (3) set forth police, sanitary, or similar regulations, rather than purport only to grant or limit legislative power of a municipal corporation to set forth police, sanitary or similar regulations, and (4) prescribe a rule of conduct upon citizens generally.

Home Rule Amendment, Article XVIII of the Ohio Constitution, permits municipalities “to exercise all powers of local self-government and to adopt and enforce within their limits such local police, sanitary and other similar regulations, as are not in conflict with general laws.” Art. XVIII, § 3.


The Court was presented with the issue of whether a Clyde municipal ordinance, which prohibited licensed gun owners from carrying concealed weapons in city parks, was a valid exercise of the municipality’s home-rule power under the Constitution. The Court held that because the ordinance conflicts with a general law, the recently enacted concealed carry legislation, the ordinance was invalid. In so holding the Court overruled a decision of the Sixth District Court of Appeals in *Toledo v. Beatty*, 169 Ohio App. 3d 502 (2006), which had, before the enactment of Ohio Rev. Code § 9.68(A), upheld the authority of a local municipality to prohibit the concealed carry of weapons in a local park.

Home rule analysis: presents a three-step process. First, determine whether the ordinance at issue involves an exercise of local self-government or an exercise of local police power. Second, if the local ordinance is an exercise of police power the statute is reviewed to determine whether it is a general law under the four part test announced in *Canton v. State*. If the statute qualifies as a general law under this test the local ordinance must give if it conflicts with the general law. Third, determine whether the ordinance conflicts with the statute. Whether the ordinance permits or licenses that which the statute forbids and vice versa is the test.


The Court distinguished *Ohioans for Concealed Carry* in holding that a Lima city ordinance requiring employees to live within the city limits was invalid because it contradicted Ohio Rev. Code § 9.481(B)(1), which states that no political subdivision shall require any of its employees, as a condition of employment, to reside in any specific area of the state. The Court held that
Ohioans for Concealed Carry was distinguishable from Lima because in that case there was no valid exercise of home-rule because the General Assembly was able to enact the statute under a provision of the Constitution that allows broad authority for the General Assembly to legislate for the comfort of citizens. That law then preempts conflicting municipal ordinances.


Most recently the Court considered the question of whether recently enacted Ohio Rev. Code § 9.68 is a general law that displaces municipal firearm ordinances and does not unconstitutionally infringe on municipal home rule authority. The Court answered that the statute is constitutional and that under the home-rule test, because the statute is a general law, the ordinance is invalid.

IV. Recent Litigation

*Students for Concealed Carry Found. v. The Ohio State Univ.*, Court of Common Pleas, Franklin (July 6, 2014 filed).

The student group and its national counterpart sue for declaratory judgment and attorneys’ fees declaring several OSU policies in violation of Ohio Rev. Code § 9.68. The complaint alleges that the university violates the rights of students and faculty by denying them the right to open carry of weapons on campus in contravention of state law, and in denying the right to carry concealed weapons in a locked car on campus. The University has filed a motion to dismiss on grounds of lacking standing and on the merits. The University argues that Ohio Rev. Code § 9.68 is meant to regulate municipalities, not the state itself. Further, the University argues that even if read to apply to the state, the policies and student handbook have the force of law and therefore act as exceptions to the broad provision of the right to carry a weapon without restriction in the State. The case is set for trial in July 2015.

V. Other Jurisdictions


The Supreme Court of Kentucky took up the issue of whether an employee was terminated appropriately under the State law. The employee, who worked at the University of Kentucky’s Medical Center, was terminated after fellow employees complained to management of suspicion that he possessed a firearm in his locker, in contravention of University policy. The employee stated that he lawfully possessed a firearm and that he kept the concealed weapon in his vehicle, as was permissible under Kentucky state statute. The University terminated him and he sued for wrongful termination in contravention of public policy. The Court reversed summary judgment for the University and held that the right to bear arms in self-defense was a well-established right that preempted the right of the University to set rules for the possession of firearms on its premises. The case was remanded for further review.

Florida First District Court of Appeals. *Florida Carry, Inc. v. University of North Florida*, February 2014. The Court struck down a university policy prohibiting weapons in locked cars on the university property. The Court held that the university did not fit into any exception in the Florida weapons statute. Held that the university was not a “school district” within the meaning of the statute.
VI. Opinions by the Ohio Attorney General

The Ohio Attorney General’s Office from time to time provides formal opinions on the possession of weapons on public property. Several opinions issued since Ohio’s concealed carry legislation was enacted are recorded below.


Letter to The Honorable Victor V. Vigluicci, Portage County Prosecuting Attorney, 466 South Chestnut Street, Ravenna, Ohio 44266. The AG advises that a license to carry a concealed weapon may be denied to a person who was convicted or plead guilty to a disqualifying offense under the statute, even if the records of that conviction have been sealed by a court.


Letter to The Honorable Gary C. Bennett, Lorain County Prosecuting Attorney, 226 Middle Avenue, 4th Floor, Elyria, Ohio 44035. The AG advises that off duty police officers, who are permitted to carry concealed weapons as part of their duties, do not have to obtain a concealed carry license but are prohibited from carrying concealed weapons in certain areas or situations restricted by statute, but with certain exceptions.


Letter to The Honorable Martin P. Votel, Preble County Prosecuting Attorney, 103 North Barron Street, Eaton, Ohio 45320. The AG advises that boards of county commissioners are required to post signs telling individuals that they are prohibited from carrying a concealed weapon into that building. Boards of county commissioners are not permitted to restrict concealed carry in areas outside of buildings, even if they charge a fee for admission.


Letter to The Honorable Dennis Watkins, Trumbull County Prosecuting Attorney, Administration Building, Fourth Floor, 160 High Street N.W., Warren, Ohio 44481-1092. The AG advises that the Ohio Public Records statute provides an exception for records of concealed carry permits and applications. Journalists are permitted to view limited information and may disseminate it. Otherwise, the records are not public records and are confidential.


Letter to The Honorable David L. Landefeld, Fairfield County Prosecuting Attorney, 201 South Broad Street, Fourth Floor, Lancaster, Ohio 43130. The AG advises that a county sheriff is not required to issue a license to carry a concealed handgun to a person when the sheriff has reason to believe the person is in danger of becoming a drug dependent person or a chronic alcoholic.
2923.126 Duties of licensed individual.

(A) A concealed handgun license that is issued under section 2923.125 of the Revised Code shall expire five years after the date of issuance. A licensee who has been issued a license under that section shall be granted a grace period of thirty days after the licensee’s license expires during which the licensee’s license remains valid. Except as provided in divisions (B) and (C) of this section, a licensee who has been issued a concealed handgun license under section 2923.125 or 2923.1213 of the Revised Code may carry a concealed handgun anywhere in this state if the licensee also carries a valid license and valid identification when the licensee is in actual possession of a concealed handgun. The licensee shall give notice of any change in the licensee’s residence address to the sheriff who issued the license within forty-five days after that change.

If a licensee is the driver or an occupant of a motor vehicle that is stopped as the result of a traffic stop or a stop for another law enforcement purpose and if the licensee is transporting or has a loaded handgun in the motor vehicle at that time, the licensee shall promptly inform any law enforcement officer who approaches the vehicle while stopped that the licensee has been issued a concealed handgun license and that the licensee currently possesses or has a loaded handgun; the licensee shall not knowingly disregard or fail to comply with lawful orders of a law enforcement officer given while the motor vehicle is stopped, knowingly fail to remain in the motor vehicle while stopped, or knowingly fail to keep the licensee’s hands in plain sight after any law enforcement officer begins approaching the licensee while stopped and before the officer leaves, unless directed otherwise by a law enforcement officer; and the licensee shall not knowingly have contact with the loaded handgun by touching it with the licensee’s hands or fingers, in any manner in violation of division (E) of section 2923.16 of the Revised Code, after any law enforcement officer begins approaching the licensee while stopped and before the officer leaves. Additionally, if a licensee is the driver or an occupant of a commercial motor vehicle that is stopped by an employee of the motor carrier enforcement unit for the purposes defined in section 5503.04 of the Revised Code and if the licensee is transporting or has a loaded handgun in the commercial motor vehicle at that time, the licensee shall promptly inform the employee of the unit who approaches the vehicle while stopped that the licensee has been issued a concealed handgun license and that the licensee currently possesses or has a loaded handgun.

If a licensee is stopped for a law enforcement purpose and if the licensee is carrying a concealed handgun at the time the officer approaches, the licensee shall promptly inform any law enforcement officer who approaches the licensee while stopped that the licensee has been issued a concealed handgun license and that the licensee currently is carrying a concealed handgun; the licensee shall not knowingly disregard or fail to comply with lawful orders of a law enforcement officer given while the licensee is stopped or knowingly fail to keep the licensee’s hands in plain sight after any law enforcement officer begins approaching the licensee while stopped and before the officer leaves, unless directed otherwise by a law enforcement officer; and the licensee shall not knowingly remove, attempt to remove, grasp, or hold the loaded handgun or knowingly have contact with the loaded handgun by touching it with the licensee’s hands or fingers, in any manner in violation of division (B) of section 2923.12 of the Revised Code, after any law enforcement officer begins approaching the licensee while stopped and before the officer leaves.
Midwest Labor and Employment Law

(B) A valid concealed handgun license does not authorize the licensee to carry a concealed handgun in any manner prohibited under division (B) of section 2923.12 of the Revised Code or in any manner prohibited under section 2923.16 of the Revised Code. A valid license does not authorize the licensee to carry a concealed handgun into any of the following places:

(1) A police station, sheriff’s office, or state highway patrol station, premises controlled by the bureau of criminal identification and investigation, a state correctional institution, jail, workhouse, or other detention facility, an airport passenger terminal, or an institution that is maintained, operated, managed, and governed pursuant to division (A) of section 5119.14 of the Revised Code or division (A)(1) of section 5123.03 of the Revised Code;

(2) A school safety zone if the licensee’s carrying the concealed handgun is in violation of section 2923.122 of the Revised Code;

(3) A courthouse or another building or structure in which a courtroom is located, in violation of section 2923.123 of the Revised Code;

(4) Any premises or open air arena for which a D permit has been issued under Chapter 4303. of the Revised Code if the licensee’s carrying the concealed handgun is in violation of section 2923.121 of the Revised Code;

(5) Any premises owned or leased by any public or private college, university, or other institution of higher education, unless the handgun is in a locked motor vehicle or the licensee is in the immediate process of placing the handgun in a locked motor vehicle;

(6) Any church, synagogue, mosque, or other place of worship, unless the church, synagogue, mosque, or other place of worship posts or permits otherwise;

(7) A child day-care center, a type A family day-care home, or a type B family day-care home, except that this division does not prohibit a licensee who resides in a type A family day-care home or a type B family day-care home from carrying a concealed handgun at any time in any part of the home that is not dedicated or used for day-care purposes, or from carrying a concealed handgun in a part of the home that is dedicated or used for day-care purposes at any time during which no children, other than children of that licensee, are in the home;

(8) An aircraft that is in, or intended for operation in, foreign air transportation, interstate air transportation, intrastate air transportation, or the transportation of mail by aircraft;

(9) Any building that is a government facility of this state or a political subdivision of this state and that is not a building that is used primarily as a shelter, restroom, parking facility for motor vehicles, or rest facility and is not a courthouse or other building or structure in which a courtroom is located that is subject to division (B)(3) of this section;

(10) A place in which federal law prohibits the carrying of handguns.

(C)(1) Nothing in this section shall negate or restrict a rule, policy, or practice of a private employer that is not a private college, university, or other institution of higher education concerning or prohibiting the presence of firearms on the private employer’s premises or property, including motor vehicles owned by the private employer. Nothing in this section shall require a private employer of that nature to adopt a rule, policy, or practice concerning or prohibiting the presence of firearms on the private employer’s premises or property, including motor vehicles owned by the private employer.
(2)(a) A private employer shall be immune from liability in a civil action for any injury, death, or loss to person or property that allegedly was caused by or related to a licensee bringing a handgun onto the premises or property of the private employer, including motor vehicles owned by the private employer, unless the private employer acted with malicious purpose. A private employer is immune from liability in a civil action for any injury, death, or loss to person or property that allegedly was caused by or related to the private employer’s decision to permit a licensee to bring, or prohibit a licensee from bringing, a handgun onto the premises or property of the private employer. As used in this division, “private employer” includes a private college, university, or other institution of higher education.

(b) A political subdivision shall be immune from liability in a civil action, to the extent and in the manner provided in Chapter 2744. of the Revised Code, for any injury, death, or loss to person or property that allegedly was caused by or related to a licensee bringing a handgun onto any premises or property owned, leased, or otherwise under the control of the political subdivision. As used in this division, “political subdivision” has the same meaning as in section 2744.01 of the Revised Code.

(3)(a) Except as provided in division (C)(3)(b) of this section, the owner or person in control of private land or premises, and a private person or entity leasing land or premises owned by the state, the United States, or a political subdivision of the state or the United States, may post a sign in a conspicuous location on that land or on those premises prohibiting persons from carrying firearms or concealed firearms on or onto that land or those premises. Except as otherwise provided in this division, a person who knowingly violates a posted prohibition of that nature is guilty of criminal trespass in violation of division (A)(4) of section 2911.21 of the Revised Code and is guilty of a misdemeanor of the fourth degree. If a person knowingly violates a posted prohibition of that nature and the posted land or premises primarily was a parking lot or other parking facility, the person is not guilty of criminal trespass in violation of division (A)(4) of section 2911.21 of the Revised Code and instead is subject only to a civil cause of action for trespass based on the violation.

(b) A landlord may not prohibit or restrict a tenant who is a licensee and who on or after September 9, 2008, enters into a rental agreement with the landlord for the use of residential premises, and the tenant’s guest while the tenant is present, from lawfully carrying or possessing a handgun on those residential premises.

(c) As used in division (C)(3) of this section:

(i) “Residential premises” has the same meaning as in section 5321.01 of the Revised Code, except “residential premises” does not include a dwelling unit that is owned or operated by a college or university.

(ii) “Landlord,” “tenant,” and “rental agreement” have the same meanings as in section 5321.01 of the Revised Code.

(D) A person who holds a concealed handgun license issued by another state that is recognized by the attorney general pursuant to a reciprocity agreement entered into pursuant to section 109.69 of the Revised Code has the same right to carry a concealed handgun in this state as a person who was issued a concealed handgun license under section 2923.125 of the Revised Code and is subject to the same restrictions that apply to a person who carries a license issued under that section.
(E) A peace officer has the same right to carry a concealed handgun in this state as a person who was issued a concealed handgun license under section 2923.125 of the Revised Code. For purposes of reciprocity with other states, a peace officer shall be considered to be a licensee in this state.

(F)(1) A qualified retired peace officer who possesses a retired peace officer identification card issued pursuant to division (F)(2) of this section and a valid firearms requalification certification issued pursuant to division (F)(3) of this section has the same right to carry a concealed handgun in this state as a person who was issued a concealed handgun license under section 2923.125 of the Revised Code and is subject to the same restrictions that apply to a person who carries a license issued under that section. For purposes of reciprocity with other states, a qualified retired peace officer who possesses a retired peace officer identification card issued pursuant to division (F)(2) of this section and a valid firearms requalification certification issued pursuant to division (F)(3) of this section shall be considered to be a licensee in this state.

(2)(a) Each public agency of this state or of a political subdivision of this state that is served by one or more peace officers shall issue a retired peace officer identification card to any person who retired from service as a peace officer with that agency, if the issuance is in accordance with the agency’s policies and procedures and if the person, with respect to the person’s service with that agency, satisfies all of the following:

(i) The person retired in good standing from service as a peace officer with the public agency, and the retirement was not for reasons of mental instability.

(ii) Before retiring from service as a peace officer with that agency, the person was authorized to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law and the person had statutory powers of arrest.

(iii) At the time of the person’s retirement as a peace officer with that agency, the person was trained and qualified to carry firearms in the performance of the peace officer’s duties.

(iv) Before retiring from service as a peace officer with that agency, the person was regularly employed as a peace officer for an aggregate of fifteen years or more, or, in the alternative, the person retired from service as a peace officer with that agency, after completing any applicable probationary period of that service, due to a service-connected disability, as determined by the agency.

(b) A retired peace officer identification card issued to a person under division (F)(2)(a) of this section shall identify the person by name, contain a photograph of the person, identify the public agency of this state or of the political subdivision of this state from which the person retired as a peace officer and that is issuing the identification card, and specify that the person retired in good standing from service as a peace officer with the issuing public agency and satisfies the criteria set forth in divisions (F)(2)(a)(i) to (iv) of this section. In addition to the required content specified in this division, a retired peace officer identification card issued to a person under division (F)(2)(a) of this section may include the firearms requalification certification described in division (F)(3) of this section, and if the identification card includes that certification, the identification card shall serve as the firearms requalification certification for the retired peace officer. If the issuing public agency issues credentials to active law enforcement officers who serve the agency, the agency may comply with division (F)(2)(a) of this section by issuing the same credentials to persons who retired from service as a peace
officer with the agency and who satisfy the criteria set forth in divisions (F)(2)(a)(i) to (iv) of this section, provided that the credentials so issued to retired peace officers are stamped with the word “RETIRED.”

(c) A public agency of this state or of a political subdivision of this state may charge persons who retired from service as a peace officer with the agency a reasonable fee for issuing to the person a retired peace officer identification card pursuant to division (F)(2)(a) of this section.

(3) If a person retired from service as a peace officer with a public agency of this state or of a political subdivision of this state and the person satisfies the criteria set forth in divisions (F)(2)(a)(i) to (iv) of this section, the public agency may provide the retired peace officer with the opportunity to attend a firearms requalification program that is approved for purposes of firearms requalification required under section 109.801 of the Revised Code. The retired peace officer may be required to pay the cost of the course.

If a retired peace officer who satisfies the criteria set forth in divisions (F)(2)(a)(i) to (iv) of this section attends a firearms requalification program that is approved for purposes of firearms requalification required under section 109.801 of the Revised Code, the retired peace officer’s successful completion of the firearms requalification program requalifies the retired peace officer for purposes of division (F) of this section for five years from the date on which the program was successfully completed, and the requalification is valid during that five-year period. If a retired peace officer who satisfies the criteria set forth in divisions (F)(2)(a)(i) to (iv) of this section satisfactorily completes such a firearms requalification program, the retired peace officer shall be issued a firearms requalification certification that identifies the retired peace officer by name, identifies the entity that taught the program, specifies that the retired peace officer successfully completed the program, specifies the date on which the course was successfully completed, and specifies that the requalification is valid for five years from that date of successful completion. The firearms requalification certification for a retired peace officer may be included in the retired peace officer identification card issued to the retired peace officer under division (F)(2) of this section.

A retired peace officer who attends a firearms requalification program that is approved for purposes of firearms requalification required under section 109.801 of the Revised Code may be required to pay the cost of the program.

(G) As used in this section:

(1) “Qualified retired peace officer” means a person who satisfies all of the following:
(a) The person satisfies the criteria set forth in divisions (F)(2)(a)(i) to (v) of this section.
(b) The person is not under the influence of alcohol or another intoxicating or hallucinatory drug or substance.
(c) The person is not prohibited by federal law from receiving firearms.

(2) “Retired peace officer identification card” means an identification card that is issued pursuant to division (F)(2) of this section to a person who is a retired peace officer.

(3) “Government facility of this state or a political subdivision of this state” means any of the following:
(a) A building or part of a building that is owned or leased by the government of this state or a political subdivision of this state and where employees of the government of this state or the political subdivision regularly are present for the purpose of performing their official duties as employees of the state or political subdivision;
(b) The office of a deputy registrar serving pursuant to Chapter 4503. of the Revised Code that is used to perform deputy registrar functions.

Amended by 130th General Assembly File No. 25, HB 59, §110.20, eff. 1/1/2014.
Amended by 129th General Assembly File No.128, SB 316, §120.01, eff. 1/1/2014.
Effective Date: 04-08-2004; 03-14-2007; 2008 SB184 09-09-2008
9.68 Right to bear arms - challenge to law.

(A) The individual right to keep and bear arms, being a fundamental individual right that predates the United States Constitution and Ohio Constitution, and being a constitutionally protected right in every part of Ohio, the general assembly finds the need to provide uniform laws throughout the state regulating the ownership, possession, purchase, other acquisition, transport, storage, carrying, sale, or other transfer of firearms, their components, and their ammunition. Except as specifically provided by the United States Constitution, Ohio Constitution, state law, or federal law, a person, without further license, permission, restriction, delay, or process, may own, possess, purchase, sell, transfer, transport, store, or keep any firearm, part of a firearm, its components, and its ammunition.

(B) In addition to any other relief provided, the court shall award costs and reasonable attorney fees to any person, group, or entity that prevails in a challenge to an ordinance, rule, or regulation as being in conflict with this section.

(C) As used in this section:

(1) The possession, transporting, or carrying of firearms, their components, or their ammunition include, but are not limited to, the possession, transporting, or carrying, openly or concealed on a person’s person or concealed ready at hand, of firearms, their components, or their ammunition.

(2) "Firearm" has the same meaning as in section 2923.11 of the Revised Code.

(D) This section does not apply to either of the following:

(1) A zoning ordinance that regulates or prohibits the commercial sale of firearms, firearm components, or ammunition for firearms in areas zoned for residential or agricultural uses;

(2) A zoning ordinance that specifies the hours of operation or the geographic areas where the commercial sale of firearms, firearm components, or ammunition for firearms 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 firearms, firearm components, or ammunition for firearms in areas zoned for commercial, retail, or industrial uses.

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