

**IN THE SIXTH DISTRICT COURT OF APPEALS
LUCAS COUNTY, OHIO**

CITY OF TOLEDO,	:	
	:	
Plaintiff-Appellee,	:	
	:	
v.	:	App. No. 4801 -CL -200501319
	:	
BRUCE BEATTY,	:	Toledo Municipal Court No. CRB -05-06830
	:	
Defendant-Appellant.	:	

**BRIEF OF AMICUS CURIAE OHIO ATTORNEY GENERAL JIM PETRO
IN SUPPORT OF HOUSE BILL 12**

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INTRODUCTION

The Attorney General appears in this action as *amicus curiae* in support of the constitutionality of Amended Substitute House Bill 12 (“Concealed Carry Law”), which is part of statewide, comprehensive legislation to ensure uniform compliance regarding the licensing and carrying of a concealed weapon. The Attorney General limits his arguments to those supporting the constitutionality of the Concealed Carry Law, and does not comment on the underlying facts relating to the Appellant’s actions in this particular case. The Concealed Carry Law is a general law, and is constitutional in its entirety.

Among many other provisions, the Concealed Carry Law allows an Ohio citizen to carry a concealed weapon, and develops a comprehensive licensing scheme for concealed handguns throughout the State of Ohio. Ohio Concealed Carry Law prohibits concealed carry under certain circumstances and provides that local entities may not pass ordinances or resolutions that restrict places where a person possessing a valid concealed carry license may carry a concealed handgun.

This case presents the question as to whether the doctrine of home rule allows a political subdivision of the state to enact a law prohibiting concealed handguns in parks when the state law regulating the carrying of concealed firearms is a general law and is a matter of statewide concern. The City of Toledo defends its ordinance as a proper exercise of its home rule powers under the Ohio Constitution, and challenges the State’s authority to enact concealed carry statutes that preclude regulation by local governments, as expressed in Section 9 of H.B. 12. As clarified in 2005 Op. Att’y Gen. No. 2005-15, the power to regulate concealed handguns in this context lies with state, not local, law. The Court below respectfully erred when it held that Toledo’s ordinance was valid under the principles of home rule. As will be explained in detail

below, the trial court should be reversed. This Court should uphold the State's authority to enact comprehensive concealed carry laws, laws that are general in nature and that address a matter of statewide concern.

STATEMENT OF THE FACTS

A. Ohio's New Concealed Carry Law.

Under the Concealed Carry Law, Ohioans may now for the first time apply for a license to carry a concealed handgun. Effective on April 8, 2004, the laws allow citizens with proper firearms safety training to apply with their county sheriff, or a sheriff of an adjacent county, for a license to carry a concealed handgun.

To get a license, an individual must provide proof of his or her competency, which can be certified through the completion of a safety course, through service in the armed forces, or through an affidavit from a qualified instructor. See R.C. 2923.125(B)(3)(a)-(f). Minimal educational requirements are required to receive competency certification, including a minimum amount of range and live-fire experience and the taking and passing of a written examination. See R.C. 2923.125(G)(1)(A), (B), and (G)(2).

In addition, certain applicants are banned from receiving a license, such as those convicted of criminal offenses, subject to orders regarding mental competency and protection order issues or suffering from certain disabilities. See R.C. 2923.125(D)(1)(a)-(j) and R.C. 2923.13. If an application is denied, the county sheriff must inform the applicant of the grounds for denial in writing under R.C. 2923.125(D)(2)(b), and R.C. 2923.127 requires sheriffs to establish an appeals process for applicants who wish to challenge the denial of a license.

In addition to the licensing process, the new Concealed Carry Law places certain restrictions on concealed carry. A person licensed to carry a concealed handgun under R.C.

2923.125 or R.C. 2923.13 may carry a concealed handgun, unless he or she knowingly is in a location prohibited by the new Concealed Carry Law. *Id.* Such locations include:

- A police station, sheriff's office, or state highway patrol station, etc.;
- a school safety zone, in violation of [R.C. 2923.122];
- a courthouse or another building or structure in which a courtroom is located, in violation of [R.C. 2923.123];
- any room or open air arena in which liquor is being dispensed in premises for which a D permit has been issued under [R.C. Chapter 4303], in violation of [R.C. 2923.121];
- 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;
- any church, synagogue, mosque, or other place of worship, unless the church, synagogue, mosque, or other place of worship posts or permits otherwise;
- a child day-care center or day care home;
- 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;
- any building that is owned by this state or any political subdivision of this state, and all portions of any building that is not owned by any governmental entity listed in this division but that is leased by such a governmental entity listed in this division; and
- a place in which federal law prohibits the carrying of handguns.

See R.C. 2923.126(B)(1)-(10). A violation of this provision can be

- a first degree misdemeanor,
- a third degree felony if the individual carries a handgun into an establishment that has a D permit or in an aircraft,
- a fourth degree felony if the handgun is loaded, the carrier has a previous conviction, or previous offense of violence, or
- a fifth degree felony if taken into courthouse under 2923.123(D)(1).

See R.C. 2923.12(G)(1). Also, pursuant to R.C. 2923.12(G)(2), an individual may avoid arrest under certain circumstances if he or she promptly produces a valid concealed carry license.

The new Concealed Carry Law also regulates how a handgun may be transported in a motor vehicle, establishes signage requirements, and creates duties for the Ohio Attorney

General, the Bureau of Criminal Identification and Investigation, Office of Criminal Justice Services and the Ohio Peace Officer Training Commission. R.C. 2923.16(B)-(C), (E); R.C. 2923.126(C)(3).

B. The Challenge By The City Of Toledo.

The City of Toledo does not challenge the substantive provisions of Ohio's Concealed Carry Law. Instead, the City attempts to isolate only a very specific portion of H.B. 12 and challenged it as a violation of its home rule authority. Specifically, the City of Toledo challenged Section 9 of H.B. 12, which provides:

Section 9. The General Assembly finds that licenses to carry concealed handguns are a matter of statewide concern and wishes to ensure uniformity throughout the state regarding the qualifications for a person to hold a license to carry a concealed handgun and the authority granted to a person holding a license of that nature. It is the intent of the General Assembly in amending sections 1547.69, 2911.21, 2921.13, 2923.12, 2923.121, 2923.123, 2923.16, 2953.32, and 4749.10 and enacting sections 109.69, 109.731, 311.41, 311.42, and 2923.124 to 2923.1213 of the Ohio Revised Code to enact laws of a general nature, and, by enacting those laws of a general nature, the state occupies and preempts the field of issuing licenses to carry a concealed handgun and the validity of licenses of that nature. No municipal corporation may adopt or continue in existence any ordinance, and no township may adopt or continue in existence any resolution, that is in conflict with those sections, including, but not limited to, any ordinance or resolution that attempts to restrict the places where a person possessing a valid license to carry a concealed handgun may carry a handgun concealed.

This section of the bill states the General Assembly's intent to preclude local regulation in this already pervasively regulated area of statewide concern.

LAW AND ARGUMENT

The General Assembly acted within its legislative powers when it passed statewide and comprehensive legislation regarding the carrying of a concealed weapon. The home rule amendment, Article XVIII, Section 3 of the Ohio Constitution provides:

Municipalities shall have authority 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*.

(Emphasis added.) Notably, this provision does not expressly limit the authority of the General Assembly, which is vested with “the legislative power of the State.” See Section 1, Article II, of the Ohio Constitution. The Ohio Supreme Court has harmonized these two provisions as follows: “The city may exercise the police power within its borders, but the general laws of the state are supreme in the exercise of the police power, regardless of whether the matter is one which might also properly be a subject of municipal legislation. Where there is a direct conflict, the state regulation prevails.” *State ex rel. Evans v. Moore* (1982), 69 Ohio St.2d 88, 90 (quoting *Canton v. Whitman* (1975), 44 Ohio St.2d 62, 66).

The City of Toledo asserts that Section 9 of H.B. 12 is unconstitutional under Article XVIII, Section 3 of the Ohio Constitution because it prevents municipalities from exercising their constitutional authority to adopt local police ordinances. When Section 9 of H.B. 12 is considered in context with the remainder of H.B. 12, a general law enacted by the General Assembly within its authority to exercise the police powers of the State, it does not violate the home rule amendment. Section 9 of H.B. 12 reinforces the General Assembly’s intent to address the Concealed Carry Law as a matter of statewide concern, and to ensure uniformity throughout the State of Ohio.

A. Section 9 Of H.B. 12 Carries A Presumption Of Constitutionality.

As a preliminary matter, anyone challenging the constitutionality of a state statute must demonstrate beyond a reasonable doubt that the legislation and pertinent constitutional provisions are clearly incompatible. *Dickman v. Defenbacher* (1955), 164 Ohio St. 142. Indeed, a court must apply all presumptions and rules of construction so as to uphold a statute as

constitutional. *State v. Dorso* (1983), 4 Ohio St.3d 60; *Wilson v. Kennedy* (1949), 151 Ohio St. 485. A court does not assess the wisdom or policy of a challenged statute; rather, a court must determine whether the General Assembly acted within its legislative powers. *Austintown Twp. Bd. of Trustees v. Tracy* (1996), 76 Ohio St.3d 353, 356. With this backdrop, this Court should hold that Ohio's Concealed Carry Law is constitutional.¹

B. Concealed Carry Is An Issue Of Statewide Concern That Affects The Citizens Of Ohio As A Whole More Than It Affects Any Given Municipality.

As clearly stated by the Ohio Supreme Court in *Klein v. Leis* (2003), 99 Ohio St.3d 537, 2003-Ohio-4779, a statutory scheme regulating the manner in which weapons can be carried involves a police power. See *Klein v. Leis*, 2003-Ohio-4779 at ¶13, citing *State v. Nieto* (1920), 101 Ohio St. 409, 413. Although *Klein v. Leis* involved the General Assembly's prohibition of carrying a concealed weapon, this case involves the General Assembly's new Concealed Carry Law that permits the carrying of a concealed weapon and prohibits it only in limited circumstances. The pronouncement of the Ohio Supreme Court should be interpreted the same way – regulating the carrying of a concealed handgun is an exercise of police power.

The power granted under Ohio's Constitutional home rule amendment relates only to local matters and "in the regulation of such local matters a municipality may not infringe on matters of general and statewide interest." *Cleveland Electric Illuminating Co. v. City of Painesville* (1968), 15 Ohio St.2d 125, 129. In *Cleveland Electric*, the Ohio Supreme Court held that regulation of electric utilities is a matter of statewide concern that preempts all local

¹ The fact that Section 9 is an uncodified section of H.B. 12 does not lessen this burden. "Legislation which is not codified is nevertheless legally binding and is of the same force and effect as codified legislation." See *American Ass'n of Univ. Professors, Cent. State Univ. Chptr v. Central State Univ.* (Greene Cty. 1997), 1997 Ohio App. LEXIS 554, *rev'd on other grounds*, citing *Voinovich v. Bd. of Park Commrs.* (1975), 42 Ohio St. 2d 511, in which "an uncodified temporary statute" was found not to be in violation of various constitutional challenges; *In re McCrary* (Madison Cty. 1991), 75 Ohio App. 3d 601, 607, in which the court noted that it had the "duty to enforce the uncodified provisions of [a bill] with the same vigor as a codified statutory provision . . .". Therefore, Section 9 of H.B. 12 does not differ from any of the other provisions in the Concealed Carry Laws.

regulation of electric utilities. In reaching that conclusion, the Court noted that if the impact of a local regulation is not confined to the particular municipality and “affects the general public of the state as a whole more than it does the local inhabitants the matter passes from what was a matter for local government to a matter of general state interest.” *Id.* If local regulation of an issue will reach so far outside the individual municipality that it will affect the State as a whole, then the issue is one of statewide concern and the State has exclusive authority to regulate that matter.

The Ohio Supreme Court has held that a number of different issues are matters of statewide concern for purposes of home rule analysis, particularly those areas where the State has enacted comprehensive licensing regulations. For example, in *State ex rel. McElroy v. City of Akron* (1962), 173 Ohio St. 189, *appeal dismissed*, 371 U.S. 35, the Ohio Supreme Court found that boat licensing is a matter of statewide concern, and the right of the state to extend its control over licensing the use of watercraft is based in the police power for the preservation of public safety and welfare. The Court specifically stated that “[w]here the use of property becomes statewide, local regulations in the nature of licensing in respect thereto are a harassment to the general public, accompanying this then is the need for a uniform standard of safety regulations, and such matters are the subject of statewide concern requiring uniform and general regulation by the State. Clearly, under this situation we have a matter subject to the state police power, and the licensing and regulation in respect thereto constitute a valid exercise of such power.” *Id.* at 193. See also, *Anderson v. Brown* (1968), 13 Ohio St.2d 53 (statewide licensing of trailer parks conflicts with local ordinance requiring additional license and fee).

Additionally, the State also has the exclusive authority to regulate the sale and consumption of alcoholic beverages, see *City of Westlake v. Mascot Petroleum Co., Inc.* (1991),

61 Ohio St.3d 161, and only State law governs public employees' vacation credits because the State law in question addressed a matter of statewide concern. *State ex rel. Adkins v. Sobb* (1986), 26 Ohio St.3d 46, and *State ex rel. Evans v. Moore* (1982), 69 Ohio St.2d 88. In yet another example, the Court held that statewide building regulations regarding factory built units preclude local regulation of building standards for these units. *Decertification of Eastlake v. Ohio Bd. of Building Standards* (1981), 66 Ohio St.2d 363, *cert. denied*, 454 U.S. 1032. In that case, the Court held:

To allow local authorities to impose higher or different standards on these units would defeat the avowed purpose of the state building code to encourage standardization of construction 'methods employed to produce industrialized units.' See R.C. 3781.11(D). Standardization of industrialized units, as described in R.C. Chapter 3781, necessarily precludes imposition of local requirements which conflict with the practices approved for statewide use.

Id. at 367.

Other matters of statewide concern include collective bargaining by public employees. See *City of Kettering v. State Employment Relations Bd.* (1986), 26 Ohio St.3d 50, 54. See also *Automatic Refreshment Service, Inc. v. City of Cincinnati* (Hamilton Cty. 1993), 92 Ohio App.3d 284 (placement of tobacco vending machines controlled by state law); *Families Against Reily/Morgan Sites v. Butler Cty. Bd. Of Zoning Appeals* (Butler Cty. 1989), 56 Ohio App.3d 90, 96 (water and sewage control of industrial facilities is so pervasively regulated by the State government that any action by local authorities in that area conflicts with general law).

If boat and trailer park licenses are a matters of statewide concern, in which state statutes prevent municipalities from enacting regulations because that regulation would necessarily conflict with the state regulatory scheme, then so too is concealed carry. Quite simply, the licensing and carrying of a concealed handgun can be effectively addressed only through statewide regulation. The mobility of today's society accentuates the need for uniform

regulation regarding concealed carry throughout the State of Ohio. Otherwise, a licensed citizen would not be capable of carrying at all, because he or she would have to be aware of multiple, piecemeal regulations throughout the State.

Consequently, concealed carry should be legislated uniformly throughout the State as a matter of statewide concern. If every municipality in Ohio were permitted to enforce its own unique concealed carry laws, licensed carriers would be less likely (and less able) to comply with all of the varying laws, impairing the State of Ohio's licensing scheme and creating a threat of arrest for citizens duly licensed under the law. The application and enforcement of a uniform State law better serves the interests of all citizens in Ohio.

C. The State's Concealed Carry Law Overrides Conflicting Municipal Ordinances Because They Are General Laws Under The Home Rule Amendment to the Ohio Constitution.

Not only does the State's Concealed Carry Law address an issue of statewide concern, thereby trumping all local regulations, but it also is a general law that override conflicting municipal ordinances. Under Ohio's home rule amendment, state statutes control over all conflicting local regulation if they are general laws. A statute is a general law for purposes of home-rule analysis if the statute:

- 1) is part of a statewide and comprehensive legislative enactment,
- 2) applies to all parts of the state alike and operates uniformly throughout the state,
- 3) sets forth police, sanitary, or similar regulations, and
- 4) prescribes a rule of conduct upon citizens generally.

City of Canton v. State (2002), 95 Ohio St.3d 149, 154; 2002 Ohio 2005, ¶21. Thus, when an ordinance is in conflict with a general law of the State, the State law overrides the conflicting ordinance. *Ohio Ass'n of Private Detective Agencies v. North Olmsted* (1992), 65 Ohio St.3d 242; *Dayton v. State*, 2004-Ohio-3141.

The City of Toledo challenges Section 9 of H.B. 12 as an attempt by the General Assembly to “generalize the content of H.B. 12,” and states that such a prohibition is unconstitutional under Ohio’s home rule amendment. However, applying the four-part test set forth in *City of Canton*, the State’s Concealed Carry Law is a general law.

1. The State’s Concealed Carry Law Is Part Of A Statewide And Comprehensive Legislative Enactment Regulating The Carrying Of A Concealed Handgun.

The General Assembly enacted H.B. 12, a comprehensive scheme that regulates the licensing and carrying of a concealed weapon and ensures that the regulations are uniformly applied and enforced. The Ohio Supreme Court has upheld statewide and comprehensive legislative enactments as general laws under the home rule amendment even if they prohibit municipalities from enacting conflicting laws.

For example, in *State ex rel. McElroy v. Akron* (1962), 173 Ohio St. 189, the Ohio Supreme Court upheld a statewide licensing scheme for watercraft that prohibited municipalities from adding additional requirements to obtain a local watercraft license. The Court reasoned that watercraft licensing had become “of such general interest that it is necessary to make it subject to statewide control...the use of boats for recreational purposes has so expanded that local licensing would place an undue burden and constitute an unwarranted harassment of those of the general public who wish to enjoy the recreation of boating and would oft times require the purchase of a season’s license for a single use of a lake.” *Id.* at 194. Thus, the Ohio Supreme Court has held that when a comprehensive licensing scheme is developed statewide, it is a general law that may also prohibit local municipalities from legislating different requirements to operate a watercraft.

Also, in *Ohio Ass'n of Private Detective Agencies v. North Olmsted* (1992), 65 Ohio St.3d 242, the statute specifically prohibits political subdivisions from charging a license or registration fee other than as provided by the State statute. The Court upheld the statute, despite this prohibition, because it is part of statewide regulation of security personnel.

Similarly, in *Clermont Envtl. Reclamation v. Wiederhold* (1982), 2 Ohio St.3d 44, 48, the Court upheld a statute that prohibited political subdivisions from requiring any additional zoning or other approval for construction or operation of a hazardous waste facility because it was part of a comprehensive scheme to insure that such facilities are designed, sited, and operated in the manner that best serves the statewide public interest. See also *Decertification of Eastlake v. Ohio Bd. of Building Standards* (1981), 66 Ohio St.2d 363, 368, *cert. denied*, 454 U.S. 1032 (statute prohibiting political subdivisions from placing requirements conflicting with the statute establishing a one-step approval process for industrialized units throughout the State of Ohio is a general law).

The State's Concealed Carry Law enacted in H.B. 12, like the laws in *McElroy*, *Ohio Ass'n of Private Detective Agencies*, *Clermont*, and *Eastlake*, is part of a statewide and comprehensive legislation. H.B. 12 as a whole regulates the licensing and carrying of a concealed handgun throughout the State of Ohio, and the first prong of the general law test is satisfied.

2. The State's Concealed Carry Law Applies To All Parts Of The State Alike And Operates Uniformly Throughout The State.

The State's Concealed Carry Law regulates all parts of the State alike, and thus operates uniformly. For example, the statute creates a standard license to carry a concealed handgun in Ohio, and creates requirements that must be submitted to the sheriff of the county in which the person resides or the sheriff of any county adjacent to the county in which the person resides, to

apply for a license. R.C. 2923.125. Also, the Concealed Carry Law prohibits the carrying of a concealed weapon, even with a license, in certain locations located throughout the State of Ohio. See R.C. 2923.126(B)(1)-(10). Thus, the State's Concealed Carry Law, on its face, does not discriminate among localities. The regulations operate uniformly in every political subdivision in the State, thereby satisfying the second prong of the general law test.

3. The State's Concealed Carry Law Sets Forth State Police Regulations And Are Not Unconstitutional Merely Because They Prohibit Local Regulation.

As asserted above, a statutory scheme regulating the manner in which weapons can be carried involves the police power of the State. See *Klein v. Leis*, 2003-Ohio-4779 at ¶13. The Concealed Carry Law establishes the statewide regulation of licensing and carrying a concealed handgun in the State of Ohio.

Furthermore, the State's Concealed Carry Law does not only grant or limit legislative power, instead, the law is part of a comprehensive legislative scheme that serves the overriding state interest in regulating the carrying of a concealed handgun. In determining whether a statute purports only to grant or limit municipal legislative power, the Court must look at the scheme as a whole, not a statute in isolation. See *Clermont*, 2 Ohio St.3d at 48; *Ohio Ass'n of Private Detective Agencies*, 65 Ohio St.3d at 245, *Dayton v. State*, 2004-Ohio-3141, ¶¶86, 91 (holding that although R.C. 1.63(A), (B) and (C) attempt to restrict municipal power, they must be read in context with the overall legislation).

In *Ohio Ass'n of Private Detective Agencies*, the Court upheld a state statute that provides:

No license or registration fee shall be charged by the state or any of its subdivisions for conducting the business of private investigation, the business of security services, or both businesses, other than as provided in this chapter [4749].

The Court explained that “in isolation” the provision may “fail to qualify as a general law because it prohibits municipalities from exercising a local police power while not providing for uniform statewide regulation of the same subject matter. *Id.* at 245. However, *when read with the chapter in which it was enacted*, the General Assembly provided “uniform statewide regulation of security personnel” that was a general law under the home rule amendment. *Id.*

Similarly, in *Clermont*, after reviewing a challenge to a statute providing statewide requirements for hazardous waste facilities, this Court held that the state statute is constitutional under the home rule amendment. The challenged statute, R.C. 3734.05(D)(3), provides that:

No political subdivision of this state shall require any additional zoning or other approval, consent, permit, certificate, or other condition for the construction or operation of a hazardous waste facility authorized by a hazardous waste installation and operation permit issued pursuant to this chapter, nor shall any political subdivision adopt or enforce any law, ordinance, or regulation that in any way alters, impairs, or limits the authority granted in the permit issued by the board.

In *Clermont*, the Ohio Supreme Court directed that a single challenged provision must be read *in pari materia* with the related statutes. *Clermont*, 2 Ohio St.3d at 48. The Court held that “the statutory scheme contained in this chapter [Chapter 37] is a comprehensive one enacted to insure that such facilities are designed, sited, and operated in the manner which best serves the statewide public interest.” *Id.* The Court concluded, therefore, that the statute “was a valid law that superseded any conflicting municipal ordinance.” *Id.* at 49.

Most recently, in *Dayton v. State*, 2004-Ohio-3141, the Second District Court of Appeals upheld provisions that attempted to limit a municipality’s authority to regulate predatory lending. See R.C. 1.63 (A), (B), and (C). The Court reasoned that along with the same reasoning as

Clermont, the provisions challenged by the City of Dayton “must be read in the context of the overall legislation.” *Id.* at ¶86.²

Here, like in *Ohio Ass’n of Private Detective Agencies, Clermont, and Dayton v. State*, the challenged statutes’ sole purpose *is not* to limit municipal authority. When Section 9 of H.B. 12 is read *in pari materia* as directed by the Ohio Supreme Court, the Concealed Carry Law sets forth a statewide comprehensive scheme of regulations regarding concealed carry.

Citing *Clermont* with approval, the Ohio Supreme Court has recently stated that statutes limiting municipal authority are general laws if they regulate matters “‘for the protection of the lives of the people of the whole state’ and have ‘no special relation to any of the political subdivisions of the state.’” *City of Canton v. Ohio*, 95 Ohio St.3d at 157. This case is no different. Here, through H.B. 12, the State comprehensively regulates concealed handguns for the whole State by ensuring that citizens who are licensed to carry a concealed weapon under Ohio law are familiar with the statewide laws and will, therefore, be more likely to act in accordance with them. Thus, the Concealed Carry Law ensures that those citizens properly licensed under Ohio Law know where they can or cannot carry a concealed handgun, and, accordingly, are the exact sort of police regulation contemplated to override a municipal ordinance. Thus, the third prong of the general law test is satisfied.

² As this Court is aware, two other predatory lending cases are presently before the Ohio Supreme Court: *American Financial Services Association v. City of Cleveland*, Ohio Supreme Court Case Nos. 2005-0160, 2005-0160, which will be argued before the Ohio Supreme Court on November 30, 2005, and *American Financial Services Association v. City of Toledo*, Ohio Supreme Court Case Nos. 2005-1240, 2005-1241, in which briefing has been stayed until the Cleveland Predatory Lending Decision has been issued. While the Toledo Predatory Lending Appellate Decision is from this Court, the Ohio Supreme Court has yet to make a final determination on these issues, as the Cleveland and Toledo Predatory Lending Appellate Decisions conflict with *City of Dayton v. State of Ohio* (2004), 157 Ohio App. 3d 736, 2004 Ohio 3141, which reviewed the State’s comprehensive statutory scheme as a whole and upheld the State’s predatory lending laws.

4. The State's Concealed Carry Law Prescribes A Rule Of Conduct Upon Citizens Generally.

The final prong of the general law test is satisfied because the State's Concealed Carry Law prescribes a rule of conduct on citizens generally. All citizens benefit from the protections afforded under the State's Concealed Carry Law, because all citizens are informed about where a concealed weapon can and cannot be carried. The state statutes prescribe a rule of conduct on properly licensed carriers by prohibiting the carrying of a concealed weapon only in certain locations.

Indeed, the State's Concealed Carry Law prescribes a rule of conduct upon citizens generally, just as the statutes in *Ohio Ass'n of Private Detective Agencies*, *McElroy*, and *Eastlake* prescribed a rule of conduct on citizens generally. In *Ohio Ass'n of Private Detective Agencies*, the statute prohibiting municipalities from placing additional requirements on state-licensed private detective agencies prescribed a rule of conduct upon those agencies to permit them to operate if they were properly licensed under the State statute. *Ohio Ass'n of Private Detective Agencies, supra*. Similarly, in *McElroy* the Ohio Supreme Court upheld a statewide licensing scheme for watercraft that prohibited municipalities from adding additional requirements to obtain a local watercraft license. See *McElroy, supra*. Finally, in *Eastlake* the statute prohibiting municipalities from placing additional requirements on industrialized units prescribed a rule of conduct on citizens generally by permitting citizens to build industrialized units so long as they satisfied the State building code. *Eastlake, supra*.

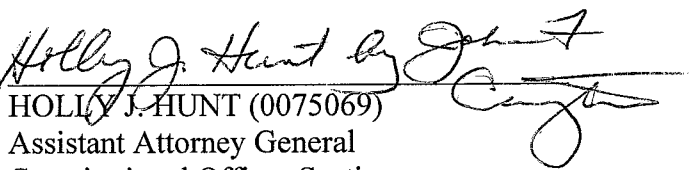
In short, by establishing a comprehensive regulatory scheme regarding the carrying of a concealed handgun, the Concealed Carry Laws prescribes a rule of conduct upon citizens generally, and the fourth and final prong of the general law test is satisfied. Thus, H.B. 12 is a general law that overrides the Ordinances if they conflict with its provisions.

IV. CONCLUSION

For the foregoing reasons, this Court should uphold the constitutionality of the State's new Concealed Carry Law.

Respectfully submitted,

JIM PETRO (0022096)
Ohio Attorney General

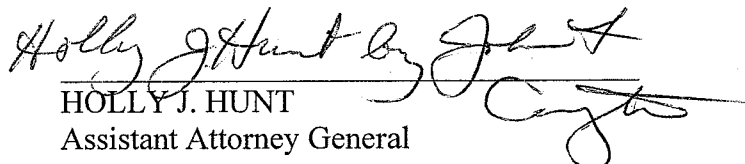

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing *Brief of Amicus Curiae Ohio Attorney General Jim Petro in Support of House Bill 12* has been served via ordinary mail, postage prepaid, this 28th day of November, 2005, upon the following:

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