

Proponent Testimony: Ohio Senate Bill 239

Chairman Grendell and Members of the Criminal Justice Committee,

My name is Jeff Garvas and I am the founding president of Ohioans For Concealed Carry, Inc. We created this organization in 1999 and have worked hard to reform Ohio's self-defense laws for over a decade here in the legislature, down the street in the Ohio Supreme Court twice, Saturday we celebrated the Second Amendment on the west lawn, today we're filing a lawsuit against the City of Campbell, and since our inception in the court of public opinion.

We spent the first five years battling emotional rhetoric that has no basis in fact, and today I am going to address that from law enforcement to the news media and our opponents.

This bill that I am here to speak to today addresses some of the most popular complaints we've heard since the inception of concealed carry six years ago. Since the vast majority of restaurants sell some form of alcohol a sober individual who has no intention of drinking alcohol can't enter those establishments for lunch, dinner, or legitimate business purposes – the perception by licensees is that we can't go out to eat or work in industries who serve restaurants – remember that last part – the service industry can't enter Class D establishments.

As you can see from the graphic at the top of my testimony the majority of the country allows this behavior, including every state surrounding Ohio. Astonishingly, of the eighteen states that recognize my Ohio license through reciprocity sixteen of them allow me to enter a liquor-serving establishment in one way or another.

Some of you may be surprised to learn that Pizza Hut sells beer. Ohio's gun owners know this very well, and as you're going to hear in testimony to follow mine this prohibition on firearms in Class D establishments almost cost someone their life.

This whole debate is very easy to summarize: If you enter a McDonald's and eat a hamburger, why can't you cross the parking lot and eat a Hamburger at Max & Erma's or Ruby Tuesday's without being a criminal?

This whole debate isn't about "mixing guns and alcohol", its about allowing people to be in the proximity of alcohol with a firearm and not consume that alcohol. Its no different than buying a 12 pack of beer and driving it home without violating any DUI laws – all while having a loaded concealed firearm on you as well.

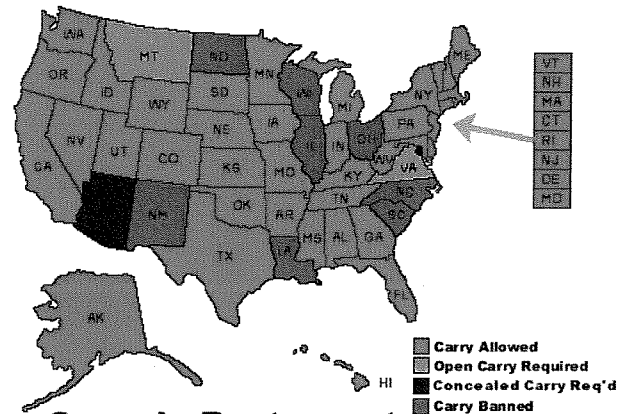
Chipolte makes great fast food – and they sell margaritas. Chilli's, Outback Steakhouse, and just about any restaurant that serves a meal is off limits to licensees. A comedy club in the city at night? Serves liquor.

This past winter at the OFCC annual holiday dinners we hold at Cracker Barrel, because they don't serve liquor, I met a man who works in the vending machine business. He services vending machines at these establishments and due to the coin collection one of his co-workers was brutally attacked and beaten. Management encouraged them to obtain their license to carry, but none of them can enter an establishment armed to do their job.

These are the unintended consequences of old law that pre-dated the concealed carry reform enacted in 2004.

For years I have been opposed to mistakes made in other states, such as the 51% of gross sales approach other states have adopted. The ratio of food to alcohol sales is a discretionary figure nobody can prove or disprove, and it's a pointless indicator – why can't a service vendor go into that establishment armed?

Basing a ban on the volume of alcohol sold is just as misguided as saying you can't have a gun because someone else in the establishment might have a drink in their hand.



Carry in Restaurants That Serve Alcohol

Source: <http://opencarry.org>

If you have not yet heard you soon will learn that certain law enforcement groups are opposed to the minor changes this bill would impact, and a similar bill in the House (HB203) – we have tried, through various channels, to sit down with the Buckeye State Sheriff's Association. In a March 28th article in the Cleveland Plain Dealer the Ohio FOP's Senior Staff Representative Mark Drum said that it's membership is "irate and appalled"

He went on to say this...

"I am kind appalled that they keep coming back and back to these issues that have already been heavily discussed," said Mark Drum of the FOP. "It just comes down to the fact that these are absolutely huge safety issues for law enforcement everywhere."

Drum said gun supporters have tried before to loosen the concealed carry rules for having a firearm in bars and restaurants and the FOP and other police groups have made concessions. For example, a tweak was made a few years ago to allow bar owners to have a concealed gun but not patrons.

"Alcohol and guns in bars just don't mix, it's just not a good safety thing," Drum said.

Remember that – The Ohio FOP wants the public and this legislature to believe that a sober individual who is not drinking and is prohibited from drinking is unsafe, and that they're irritated because they've already made concessions to allow the bar owners to carry in their own place of business, and remember these words: "Guns and bars just don't mix" – because its going to come back to haunt Mark Drum and the Ohio FOP.

Mr. Drum and the Ohio FOP, if not every law enforcement agency that is poised to come out against a bill that doesn't allow drinking and guns to be mixed in the first place, apparently forgot about so called concessions that were made in Ohio House Bill 347. Attached to my testimony is a document titled "*The hypocritical & biased opposition to HB203 & SB239 by Ohio Law Enforcement Organizations*" – if you could please turn to that page.

The top half of page one shows you today's 2923.121, specifically the exemptions to having a firearm in a class D establishment. You'll notice that paragraph (a) allows a police officer that is on duty and acting within the scope of their duties to be exempt from the ban on having a firearm in a liquor establishment. I don't think any one of us here is going to argue that a cop can't have a gun while on duty and in a bar to do his or her job – it makes sense.

The crux of the hypocrisy is paragraph (b), which if you look at the bottom half of that page, you can see that in Ohio House Bill 347, which not a single law enforcement agency seemed to object to, law enforcement made one of those concessions to us gun owners and, in an incredibly well crafted obfuscation of their intent, they magically exempted every police officer in the state of Ohio, including the Sergeant at Arms of this legislative body, when not on duty doing their job, from the ban on firearms in an establishment that happens to serve alcohol.

If you turn the page of that document you'll find that law enforcement unions across the State of Ohio, including FOP lodges, the Cleveland Police Patrolman's Association, and many others have been issued liquor licenses by the State of Ohio because – and I know this because I've seen it myself in the Akron Lodge – they have bars and they drink while holding their meetings – the difference between what law enforcement did in HB347 and what we are trying to do in SB239 is drastically different – we're telling people you can't consume alcohol in these places while you're armed – and while they're talking out of one side of their mouth about safety the cops are drinking.

I would respectfully suggest that if this committee wants to accept law enforcement's position that guns and bars don't mix we should promptly revoke their liquor licenses or amend this legislation so that the exemption for allowing an off duty police officer to enter a bar also prohibits them from consuming – or admit their opposition is political posturing with absolutely no basis in fact, and proceed to enact this legislation without their support.

It's the public and this committee that should be irate and appalled that law enforcement representation has the nerve to spew such emotional rhetoric while they themselves already secured the right to do what this bill does.

Sincerely,

Jeff Garvas

The hypocritical & biased opposition to HB203 / SB239 by Ohio Law Enforcement Organizations

2923.121 Possession of firearm in liquor permit premises - prohibition, exceptions.

Paragraph (B)(1) lists the exemptions to carrying concealed in a liquor permit premises

(A) No person shall possess a firearm in any room in which any person is consuming liquor in premises for which a D permit has been issued under Chapter 4303. of the Revised Code or in an open air arena for which a permit of that nature has been issued.

(B)(1) This section does not apply to any of the following:

(a) exempts on-duty cops

(a) An officer, agent, or employee of this or any other state or the United States, or to a law enforcement officer, who is authorized to carry firearms and is acting within the scope of the officer's, agent's, or employee's duties;

(b) is the root of all hypocrisy – it exempts a plethora of cops to the Sgt. at arms of this legislature at all times (off duty)

(b) Any person who is employed in this state, who is authorized to carry firearms, and who is subject to and in compliance with the requirements of section 109.801 of the Revised Code, unless the appointing authority of the person has expressly specified that the exemption provided in division (B)(1)(b) of this section does not apply to the person;

This block shows the modifications that HB347 made to Ohio Revised Code:

Sec. 2923.121. (A) No person shall possess a firearm in any room in which liquor is being dispensed in premises for which a D permit has been issued under Chapter 4303. of the Revised Code or in an open air arena for which a permit of that nature has been issued.

Supported By Law Enforcement

(B)(1) This section does not apply to ~~officers~~ any of the following:

Since 2007 cops have been "mixing guns with alcohol" with impunity from legislation they wrote and supported.

(a) An ~~officer, agent,~~ or ~~employees~~ employee of this or any other state or the United States, or to a law enforcement ~~officers~~ officer, who is authorized to carry firearms; and is acting within the scope of ~~the~~ the officer's, agent's, or employee's duties;

(b) was brand new law in HB347 – a new exemption

(b) Any person who is employed in this state, who is authorized to carry firearms, and who is subject to and in compliance with the requirements of section 109.801 of the Revised Code, unless the appointing authority of the person has expressly specified that the exemption provided in division (B)(1)(b) of this section does not apply to the person.

A Number of Ohio's FOP Lodges & Police Unions Have Bars In Them – Where alcohol is served during meetings...

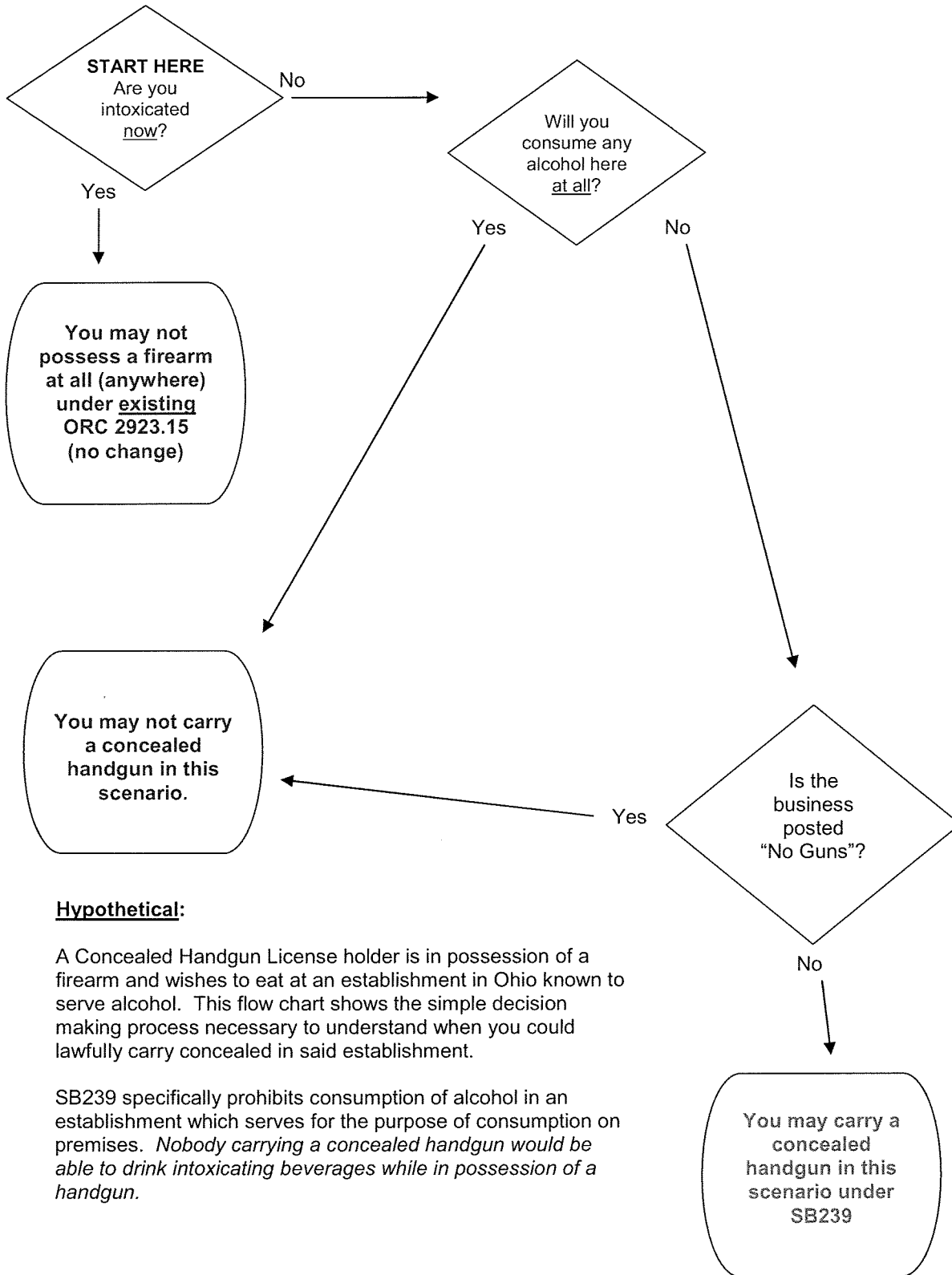
FOP LODGE0015	ST MICHAELS WOODSIDE	\$BROADVIEW HGTS	A \$F2	\$260,013,500,015	\$BROADVIEW HGTS
BLACK SHIELD POLICE ASSN	E 131ST ST W 58TH ST REAR BASEMENT	\$CLEVELAND	A \$D4	\$7,330,240,005	\$CLEVELAND
CLEVELAND POLICE PATROLMENS ASSN	E 71ST ST UPPER KRAGLE RD & BSMT	\$CLEVELAND \$CUYAHOGA HGTS	A \$D4 A \$D4	\$1,547,992 \$26,001,350,068	\$CLEVELAND \$CUYAHOGA HGTS \$ISLAND CREEK TWP
FOP LODGE0097 UPPER OHIO VALLEY	SOUTH SIXTH ST	\$WINTERSVILLE	ON \$D4	\$26,001,350,097	\$NEWARK
FOP LODGE 127 LICKING COUNTY	POWELL RD 1ST FL REAR WALNUT NE 1ST FLR ONLY	\$NEWARK \$HUBER HGTS	\$D4 ERY\$D4	\$26,001,350,126 \$289,541,600,445	\$NEWARK \$HUBER HGTS
FRATERNAL ORDER OF POLICE LODGE0044	CANTON POLICE PATROLMENS ASSOCIATION IN	\$CANTON	\$D4	\$1,232,683	\$CANTON
FRATERNAL ORDER OF POLICE AKRON LODGE #	LEY DR & PATIO	\$AKRON	\$D2	\$28,952,350,005	\$AKRON \$CLEAR CREEK TWP
WARREN COUNTY FOP INC	SR122	\$LEBANON	\$D5	\$9,413,766	

2923.121(B)(1)(a) references 109.801 – for the sole purpose of defining a type of person – most law enforcement in Ohio.

109.801 Annual firearms requalification program.

(A)(1) Each year, any of the following persons who are authorized to carry firearms in the course of their official duties shall complete successfully a firearms requalification program approved by the executive director of the Ohio peace officer training commission in accordance with rules adopted by the attorney general pursuant to section 109.743 of the Revised Code; any peace officer, sheriff, chief of police of an organized police department of a municipal corporation or township, chief of police of a township police district police force, superintendent of the state highway patrol, state highway patrol trooper, or chief of police of a university or college police department ; any parole or probation officer who carries a firearm in the course of official duties; the house of representatives sergeant at arms if the house of representatives sergeant at arms has arrest authority pursuant to division (E)(1) of section 101.311 of the Revised Code; any assistant house of representatives sergeant at arms; or any employee of the department of youth services who is designated pursuant to division (A)(2) of section 5139.53 of the Revised Code as being authorized to carry a firearm while on duty as described in that division.

How SB239 resolves the issue of carrying a concealed handgun into a restaurant in Ohio:



Hypothetical:

A Concealed Handgun License holder is in possession of a firearm and wishes to eat at an establishment in Ohio known to serve alcohol. This flow chart shows the simple decision making process necessary to understand when you could lawfully carry concealed in said establishment.

SB239 specifically prohibits consumption of alcohol in an establishment which serves for the purpose of consumption on premises. *Nobody carrying a concealed handgun would be able to drink intoxicating beverages while in possession of a handgun.*