

**TO: THE HOUSE CRIMINAL JUSTICE COMMITTEE MEMBERS**  
**FROM: REPRESENTATIVE JIM ASLANIDES**  
**DATE: NOVEMBER 15, 2005**

**SPONSOR TESTIMONY TO HOUSE BILL 347**  
**REVISING THE LAWS REGARDING**  
**LICENSES TO CARRY A CONCEALED HANDGUN**

CHAIRMAN LATTA, MEMBERS OF THE COMMITTEE, I COME BEFORE YOU TODAY TO PRESENT HOUSE BILL 347.

HOUSE BILL 347, IS A COMPREHENSIVE BILL THAT ADDRESSES A HANDFUL OF ISSUES THAT HAVE ARISEN SINCE THE PASSAGE OF HOUSE BILL 12, IN THE 125<sup>TH</sup> GENERAL ASSEMBLY.

SINCE THAT TIME OVER 70,000 LAW ABIDING CITIZENS HAVE TAKEN ADVANTAGE OF THEIR RIGHT TO APPLY FOR AND RECEIVE A PERMIT TO CARRY A CONCEALED HANDGUN.

AS PREDICTED BY MYSELF AND 50+ CO-SPONSORS OF HOUSE BILL 12, THERE HAS BEEN NO "WILD WEST SHOOT-OUTS" OR AN EPIDEMIC OF WIDE SPREAD GUN VIOLENCE. THE IMPORTANT MATTER AT HAND IS THAT -- THE CITIZENS OF OHIO HAVE THE OPPORTUNITY TO EDUCATE AND TRAIN THEMSELVES IN GUN SAFETY AND DEFEND THEMSELVES SHOULD THE NEED ARISE.

LIKE ANY COMPLICATED LAW THAT IS IMPLEMENTED INTO STATUTE, THE SUBJECT MAY NEED TO BE REVISITED IN ORDER TO FINE-TUNE AND IRON OUT THE GLITCHES. AND THAT - LADIES AND GENTLEMEN - IS WHY I AM BEFORE YOU HERE TODAY.

THE MAJOR TOPICS IN HOUSE BILL 347 ARE: DEFINING A "LOADED FIREARM", DEFINING "PLAIN SIGHT", ESTABLISHING PREEMPTION, THE DUTIES OF COUNTY SHERIFFS, OFF-DUTY LAW ENFORCEMENT, THE DEFINITION OF "PEACE OFFICER", JUVENILE DELINQUENT EXPUNGMENT OF CONVICTIONS, DISCHARGING A FIREARM IN A VEHICLE, OPEN RECORDS LAW, AND NON-CITIZENS OBTAINING A PERMIT.

**HOUSE BILL 347 DEFINES A  
LOADED FIREARM AND AN UNLOADED FIREARM  
PAGES 19,20,31,90**

THE BILL DEFINES A "LOADED FIREARM" AS ONE IN WHICH THERE IS LIVE AMMUNITION ACTUALLY IN THE FIREARM. IF THERE IS NO LIVE AMMUNITION IN THE FIREARM, THE PRESENCE OF AMMUNITION NEAR TO THE FIRERM DOES NOT MAKE THE FIREARM "LOADED".

**THE BILL DEFINES "PLAIN SIGHT"  
PAGES 86, 91**

CURRENT LAW REQUIRES A PERSON TRANSPORTING A HANDGUN TO HAVE THE WEAPON IN A HOLSTER AND IN "PLAIN SIGHT" ON THE PERSON, OR SECURELY STORED IN A CLOSED, LOCKED GLOVE COMPARTMENT OR CASE.

WOMEN, PERSONS OF LARGE STATURE, AND PERSONS OF SHORT STATURE HAVE PRACTICAL DIFFICULTIES IN COMPLYING WITH THE "PLAIN SIGHT" REQUIREMENT. ADDITIONALLY, THOSE WHO UTILIZE PUBLIC TRANSPORTATION ARE REQUIRED TO OPENLY EXPOSE THEIR GUN TO ALL ON THE VEHICLE. THIS REQUIREMENT MAY BE OFFENSIVE TO THE OTHER RIDERS.

ALSO, INDIVIDUALS WHO TRAVEL BY MOTORCYCLE ARE FORCED TO RIDE WITH THEIR GUN EXPOSED AS THEY JOURNEY ALONG THE ROADS AND HIGHWAYS. THIS TOO COULD BE OFFENSIVE TO OTHER CITIZENS AND DIFFICULT TO COMPLY WITH GIVEN THE NATURE OF THE WIND BLOWING AND WEATHER CONDITIONS WHILE RIDING ON THIS TYPE OF VEHICLE.

I WOULD ALSO LIKE TO MENTION THAT THIS PROVISION ALIGNS WITH ALL OTHER STATES (45) WHO ISSUE CONCEALED CARRY PERMITS. TO CLAIRIFY, NO OTHER SHALL ISSUE STATES REQUIRE THIS PROVISION. THEREFORE, THE PHRASE HAS BEEN STRICKEN FROM THE STATUTE.

**THE BILL ESTABLISHES PREEMPTION  
PAGE 3**

THE BILL ESTABLISHES THAT STATE LAW PREEMPTS AND SUPERSEDES ANY LOCAL LAW DEALING WITH THE OWNERSHIP, POSSESSION, PURCHASE, OR OTHER ACQUISITION, TRANSPORT, CARRYING, SALE, OR OTHER TRANSFER OF FIREARMS AND THEIR COMPONENTS. THE BILL PROHIBITS MUNICIPALITIES FROM IMPLEMENTING FIREARM TRANSPORTATION LAWS THAT TRUMP OHIO LAW.

EXAMPLES

1. PRESENTLY, COLUMBUS, CINCINNATI, CLEVELAND, DAYTON, DUBLIN AND TOLEDO HAVE IMPLEMENTED GUN LAWS.
2. ON JULY 11, 2005, THE COLUMBUS CITY COUNCIL IMPOSED A PUNATIVE GUN BAN ON THE CITY AND ITS RESIDENTS. (THE ENACTMENT OF THIS BAN IMPLIES THAT THE CITIZENS WHO LIVE INSIDE THE CITY LMITS HAVE LESS FREEDOM THAN THE PEOPLE WHO LIVE OUTSIDE THE CITY LIMITS).

3. IN MAY 2005, THE CITY OF CLYDE OUTLAWED THE CARRYING OF CONCEALED WEAPONS, BY A VALID PERMIT HOLDER, IN CITY PARKS. A SANDUSKY COUNTY COMMON PLEAS JUDGE GRANTED A TEMPORARY RESTRAINING ORDER TO PROHIBIT THE CITY FROM ENACTING THE ORDINANCE. OHIO ATTORNEY GENERAL JIM PETRO UPHELD THE RESTRAINING ORDER. THE OHIO ATTORNEY GENERAL'S INTERPRETATION OF THE LAW IS THAT LICENSED INDIVIDUALS CAN CARRY IN PARKS. THE LAW IS SQUARELY ON POINT AND CLEAR. (SEE THE ATTORNEY GENERAL JIM PETRO'S MOTION FOR SUMMARY JUDGEMENT).
4. THE CITY OF TOLEDO, THROUGH ITS HOME-RULE AUTHORITY, IS REGULATING THE ACTIVITIES IN ITS 144 CITY PARKS. HOWEVER, IN THE ATTORNEY GENERAL'S OPINION TO THE PREBLE COUNTY PROSECUTING ATTORNEY HE CLEARLY STATES THAT A PERSON WHO IS LICENSED TO CARRY A CONCEALED HANDGUN UNDER R.C. 2923.125 OR R.C.2923.1213 SHALL NOT BE PROHIBITED FROM CARRYING CONCEALED ON PROPERTY THAT IS NOT WITHIN A BUILDING (SEE ATTORNEY GENERAL OPINION NO. 2005-015, PAGE 10).

## **COUNTY SHERIFFS**

**PAGES 11, 52, 67**

THE BILL REQUIRES THE SHERIFFS TO BE OPEN DURING NORMAL BUSINESS HOURS, TO RAISE THE FEE FROM \$45 TO \$55, TO EXTEND THE PERMITS FROM 4 TO 5 YEARS, TO NOTIFY THE PERMIT HOLDER OF EXPIRATION, TO ALLOW RENEWAL 90 DAYS PRIOR TO EXPIRATION AND TO ALLOW A GRACE PERIOD OF 30 DAYS AFTER THE EXPIRED DATE.

**NORMAL BUSINESS HOURS** - THE BILL ADDS THE PROVISION THAT APPLICATIONS TO CARRY A CONCEALED WEAPON AND RENEWALS FOR SUCH SHALL BE ACCEPTED AT THE SHERIFFS OFFICE DURING NORMAL BUSINESS HOURS. THIS PROVISION IS IN RESPONSE TO COMPLAINTS THAT SHERIFF OFFICERS ARE HOLDING ERRATIC AND INCONVENIENT HOURS FOR THE ACCEPTANCE OF CONCEALED CARRY LICENSE APPLICATIONS.

**FEE CHANGE** – CURRENTLY THE MAXIMUM FEE FOR THE CONCEALED CARRY PERMIT APPLICATION AND RENEWAL OF A PERMIT IS \$45. THE BILL RAISES THE FEE TO \$55.

**EXPIRATION EXTENDED** - PRESENTLY THE TERM OF A PERMIT TO CARRY CONCEALED IS 4 YEARS. WITH THE RAISE IN THE APPLICATION FEE AND THE RENEWAL FEE, THE LENGTH OF TIME FOR EXPIRATION HAS BEEN EXPANDED TO 5 YEARS.\*\* NOTE - LICENSES THAT WERE ISSUED BEFORE THE EFFECTIVE DATE OF THIS BILL SHALL EXPIRE 4 YEARS AFTER THE DATE OF ISSUANCE.

**90 DAY PROVISION** - THE BILL ADDS THE PROVISION THAT A LICENSEE WHO WISHES TO RENEW A LICENSE TO CARRY A CONCEALED HANDGUN MAY DO SO 90 DAYS PRIOR TO THE EXPIRATION DATE. \*\*NOTE: NOTICES ARE NOT TO BE SENT MORE THAN 60 DAYS PRIOR TO EXPIRATION

**30 DAY GRACE PERIOD** - .THE BILL ADDS A GRACE PERIOD OF 30 DAYS AFTER THE EXPIRATION DATE TO RENEW A LICENSE TO CARRY CONCEALED.

**SHERIFF SHALL NOTIFY PROVISION** - THE BILL ADDS THE PROVISION THAT THE SHERIFF SHALL NOTIFY THE LICENSEES, IN WRITING, OF THE UPCOMING EXPIRATION OF THE LICENSE. THE NOTICE SHALL BE SENT BY REGULAR MAIL AT THE LICENSEE'S LAST KNOWN RESIDENT ADDRESS. THE NOTICE SHALL INFORM THE LICENSEE OF THE EXPIRATION DATE, THE PROCEDURE FOR RENEWING THE LICENSE, AND THE FACT THAT THE LICENSE MUST BE RENEWED NOT LATER THAN 30 DAYS AFTER THE SPECIFIED EXPIRATION DATE AND THAT THE 30 DAY PERIOD IS A GRACE PERIOD DURING WHICH THE LICENSE IS VALID.

## **24/7 PROVISION**

PAGE 12

THE BILL ADDS THE PROVISION THAT OFF-DUTY LAW ENFORCEMENT OFFICERS MAY CARRY A CONCEALED FIREARM 24 HOURS A DAY, 7 DAYS A WEEK.

THIS PROVISION IS NEEDED BECAUSE OF CONFUSION BETWEEN FEDERAL LAW (18 US 926) AND THE OPINION OF THE ATTORNEY GENERAL.

THE CONFLICTS LIE BETWEEN INTRA STATE COMMERCE, THE OHIO ATTORNEY GENERAL'S OPINION NO. 2004-028, CURRENT LAW, THAT SAYS A LAW ENFORCEMENT OFFICER, IS ALWAYS ON DUTY, THE ISSUE OF JURISDICTION, AND CURRENT LAW, THAT WAS CREATED IN HOUSE BILL 12. HOUSE BILL 12, STATES THAT PRIVATE PROPERTY RIGHTS TRUMP ALL OTHER STATE LAWS REGARDING CARRYING CONCEALED, STATE AND LOCAL LAWS CONCERNING SUCH AS CARRYING CONCEALED IN COURT HOUSES AND OPEN AIR ARENAS, AND CARRYING CONCEALED IN A PREMISES THAT HOLDS A D LIQUOR PERMIT.

EXAMPLE ---- REVISED CODE (2923.121) PROHIBITS ANYONE FROM POSSESSING A FIREARM IN ANY ROOM IN WHICH LIQUOR IS BEING DISPENSED FOR WHICH A D PERMIT HAS BEEN ISSUED. IT GOES ON TO SAY THAT THIS SECTION DOES NOT APPLY TO OFFICERS, AGENTS, OR EMPLOYEES OF THIS OR ANY STATE OR THE UNITED STATES, OR TO LAW ENFORCEMENT OFFICERS, AUTHORIZED TO CARRY FOREARMS, AND ACTING IN THE SCOPE OF THEIR DUTIES.

ON DUTY IS ONE THING BUT WHAT IF THE OFFICER OR AGENT IS NOT OFFICIALLY ON DUTY? THE OLD LAW SAYS OFFICERS ARE ALWAYS ON DUTY BUT THE AG'S OPINION SAYS THAT IF THE OFFICER IS NOT IN HIS OR HER OWN JURISDICTION THEN HE OR SHE IS NOT CONSIDERED ON DUTY.

## **EXTENDS THE DEFINITION OF PEACE OFFICER**

PAGES 7, 12, 20, 26, 31, 45, 87

THE BILL PROVIDES THAT AN INVESTIGATOR EMPLOYED BY THE OHIO BUREAU OF CRIMINAL INVESTIGATION (AS DEFINED IN SECTION 109.541 (A)(1) OF THE REVISED CODE) IS INCLUDED IN THE DEFINITION OF "PEACE OFFICER". INCLUDING SUCH INVESTIGATORS IN THE "PEACE OFFICER" CATEGORY EXTENDS TO THEM THE EXEMPTION FOR CERTAIN "CARRYING OF FIREARMS" OFFENSES AFFORDED TO PERSONS IN COMPLIANCE WITH THE PEACE OFFICERS TRAINING COMMISSION'S FIREARMS REQUALIFICATION PROGRAM.

**JUVENILE DELINQUENT  
EXPUNGED CONVICTIONS AFFIRMATIVE DEFENSE  
PAGES 23, 24, 37, 41, 61, 77**

THE BILL CLARIFIES “EXPUNGED CONVICTIONS” AS IT RELATES TO FALSIFICATION ON THE APPLICATION FOR A PERMIT TO CARRY A CONCEALED FIREARM.

IT PROVIDES AN AFFIRMATIVE DEFENSE FOR FAILURE TO DISCLOSE, ON THE CONCEALED CARRY PERMIT APPLICATION, PRIOR OFFENSES AS A JUVENILE DELINQUENT, THAT WERE SEALED OR EXPUNGED BY THE COURT.

**DISCHARGING A FIREARM FROM A VEHICLE  
PAGES 18, 81, 91**

THE BILL PROVIDES A SELF-DEFENSE AFFIRMATIVE DEFENSE TO DISCHARGE A FIREARM WHILE IN OR ON A VESSEL OR MOTOR VEHICLE.

**STATEMENTS AND AFFIDAVIDS**

THE BILL PROVIDES THAT A PERSON MAY FILE A SWORN STATEMENT OR WRITTEN DOCUMENT WITH THE SHERIFF THAT STATES THAT THE PERSON HAS REASONABLE CAUSE TO FEAR A CRIMINAL ATTACK UPON THE PERSON, OR THE PERSONS FAMILY, SHOULD THE PERSONS PERSONAL INFORMATION BE DISCLOSED TO A JOURNALIST OR THE GENERAL PUBLIC. **OR** IF A WRITTEN DOCUMENT, PREPARED BY A GOVERNMENTAL ENTITY OR PUBLIC OFFICIAL, DESCRIBING THE FACTS THAT GIVE THE PERSON REASONABLE CAUSE TO FEAR A CRIMINAL ATTACK UPON THE PERSON OR A MEMBER OF THAT PERSON’S FAMILY. DOCUMENTS INCLUDE, BUT ARE NOT LIMITED TO ANY TEMPORARY PROTECTION ORDER, CIVIL PROTECTION ORDER, A PROTECTION ORDER ISSUED BY THE COURT OF ANOTHER STATE, ANY COURT ORDER, ANY COURT REPORT FILED WITH OR MADE BY A LAW ENFORCEMENT AGENCY OR PROSECUTOR.

**OPEN RECORDS**

THE BILL PROHIBITS A SHERIFF FROM DISCLOSING TO JOURNALISTS THE NAME, COUNTY OF RESIDENCE, OR DATE OF BIRTH OF LICENSE APPLICANTS IF THEY HAVE A SWORN STATEMENT ON FILE – PRIOR TO THE JOURNALIST REQUEST, THAT THEY HAVE REASONABLE CAUSE TO FEAR A CRIMINAL ATTACK UPON THEMSELVES OR THEIR FAMILIES IF THAT INFORMATION IS DISCLOSED TO THE MEDIA.

**NON U. S. CITIZEN**

THE BILL PROHIBITS ANYONE WHO IS NOT A UNITED STATES CITIZEN FROM OBTAINING A LICENSE TO CARRY A CONCEALED FIREARM.

## **INTERESTED PARTIES**

THE FATERNAL ORDER OF POLICE, THE BUCKEY SHERIFFS ASSOCIATION, THE OHIO ATTORNEY GENERAL, THE NATIONAL RIFFLE ASSOCIATION AND THE OHIOANS FOR CONCEALED CARRY SUPPORT THIS BILL, BUCKEYE FIREARMS ASSOCIATION