



Buckeye Firearms Association

www.BuckeyeFirearms.org

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WOMAN CONVICTED FOR HAVING AN UNLOADED HANDGUN IN A CASE IN HER OWN CAR!!! COURT RULES THERE IS NO LEGAL TRANSPORTATION OF AN UNLOADED HANDGUN IN OHIO!! EMERGENCY ACTION NEEDED!!!

Issue: The General Assembly made unloaded transportation of a handgun in Ohio illegal, and unloaded transportation of other firearms is a confusing trap for the unwary.

Impact: All firearm owners and persons visiting Ohio with firearms. (Not a concealed carry issue.)

Specifics: Due to poor drafting in H.B. 12, the Ohio General Assembly mistakenly removed the ability for a gun owner to transport an unloaded handgun in a motor vehicle. Specifically, H.B. 12 made a change to R.C. § 2923.12 that was intended to remove the prior “prudent man” affirmative defenses to a charge of carrying a concealed weapon. Unfortunately, included in the section removing the “prudent man” affirmative defenses was the language allowing for the transportation of an unloaded handgun under R.C. § 2923.16. Thus, when the General Assembly changed the language in R.C. § 2923.12(D) to “*It is an affirmative defense to a charge under division (A)(1) of this section of carrying or having control of a weapon other than a handgun ...*” the affirmative defense of legal, unloaded transportation of a handgun was wiped out right along with the “prudent man” affirmative defenses.

Even without this drafting error, there is a tremendous amount of uncertainty associated with transporting any firearm in Ohio. The existing case law on unloaded transportation, which is confusing and contradictory, leaves people at the discretion of the police due to incredibly varying interpretations of what “unloaded” means. In Ohio someone can be guilty of a crime for transporting an unloaded rifle in their car simply because ammunition is somewhere nearby. The origin of this problem is two-fold: First, both the concealed carry statute (2923.12) AND the transportation statute (2923.16) are used against people transporting firearms in cars, and Second, there are no definitions or guidance on what “loaded” or “unloaded” mean in the context of a car.

Action Needed: The Ohio General Assembly needs to fix the unintended change made by H.B. 12. Legislation should be passed, as soon as possible, restoring the ability of gun owners living in, or traveling in, Ohio to transport unloaded handguns. Further, the General Assembly should take this same opportunity to correct 25 years of bad case law by providing that only one statute, R.C. § 2923.16, controls the transportation of unloaded firearms in motor vehicles, and by further providing for a concrete, reliable method, not open to interpretation and including definitions, to transport unloaded firearms with a statutory “safe harbor” provision.

Sample legislation fixing this problem is available to aid LSC in drafting. Contact Ken Hanson Esq., 740-215-6433 to obtain specimen language.