

Executive Summary

Cleveland proposes a package of 27 different ordinances regulating weapons. Cleveland also proposes a series of ordinances that collectively would establish a gun-offender registry. Ohio established what is broadly referred to as “firearm preemption” via R.C. 9.68. (Technically, R.C. 9.68 is “conflicts of law” analysis, as Ohio does not have true preemption. This is a distinction without a difference.) The Ohio Supreme Court upheld firearm prevention twice in the last decade. Firearm preemption removes the ability of municipalities to regulate firearms.

Pro-gun groups are understandably concerned with Cleveland’s proposals. Pro-gun groups, for over a decade, worked tirelessly to insure that Ohio has one set of firearm laws that are uniform throughout the state. Similarly, the General Assembly expressed a clear intent to provide for uniform firearm laws in Ohio, and the Ohio Supreme Court recognized, and validated, the General Assembly’s intent.

For purposes of discussion, Cleveland’s proposed ordinances are broken up into groupings:

- 1.) Ordinances that will not pass court review
- 2.) Ordinances that likely will not pass court review
- 3.) Ordinances that are duplicative with state law and are unneeded
- 4.) The gun offender registry
- 5.) Ordinances that do not regulate firearms and will not face action

Ordinances that will not pass court review

These ordinances attempt to regulate firearms in a manner that creates a clear conflict with state law. As such, absent a reversal of precedent, courts will rule against these ordinances.

627.03	Limits firearm purchases to one per ninety days
627.07	Firearm access to a minor
627.16	Prohibiting transactions to felons or intoxicated persons
627.13	Reporting gun sales to the Police

Broadly speaking, there are two primary reasons these ordinances will not pass court review. With regard to 627.03 and 627.13, Cleveland attempts to regulate gun sales in a manner conflicting with R.C. 9.68. Ohio already established that all Ohioans have the right to purchase

and sell firearms, unless restricted by state or Federal law, and municipalities may not further regulate this conduct.

With regard to 627.07 and 627.16, Cleveland attempts to regulate actions that are already prohibited Ohio law, and the penalty is a felony. 627.07 and 627.16 attempt to change the penalty to a misdemeanor. The Ohio Supreme Court already held municipalities may not attempt to make a felony a misdemeanor. City of Cleveland v. Betts (1958), 168 Ohio St. 386, 389.

Ordinances that likely will not pass court review

627.12	Summarily seizing and forfeiting firearms
--------	---

Ohio established a comprehensive framework regulating when police may or may not seize firearms, when the firearm may be forfeited, the process, procedure and due process protections etc. This is set forth in R.C. 2923.163 and R.C. 2981.04. Cleveland is well aware of this, as last December the city paid Derrick Washington \$6,750 for his \$400 gun. (See *Cleveland pays out settlement in gun lawsuit, will review law over weapon seizures, Cleveland Plain Dealer*, December 18, 2013.) Ohio already established a thorough framework regulating this subject matter and intended for it to be uniform throughout the state of Ohio. Cleveland’s proposed 627.12 weakens, or ignores, the safeguards and procedures set forth in state law and will almost certainly be found to conflict with state law.

Ordinances that are duplicative with state law and are unneeded

627.02	CCW Prohibited
627.04	Using weapons while intoxicated
627.05	Improperly handling firearms in Motor Vehicle
627.06	Failure to secure dangerous ordnance
627.08	Underage purchase of a handgun
627.09	Improper discharge of firearm near prohibited premises
627.14	Serial number defacing is prohibited, as is possession of a firearm with defaced serial numbers
627.17	Voluntary surrender of firearms
627.18	Reporting lost or stolen firearms
627.20	Replica Firearms into a school zone

These ordinances are, almost, a word-for-word restatement of state law. The only changes are formatting, numbering, or deleting the felony-level content of the state law (since municipalities cannot regulate felonies). For convenience, a black-line comparison of the state laws to each of these proposed ordinances is included in a later section.

These ordinances are not “giving the police tools they need,” “closing loopholes in state law,” or accomplishing anything new at all. Rather, the proposed ordinances parrot current state law.

Some might say, “If it is already state law, there is no harm in Cleveland passing the same law.” What would this accomplish? Confusion, redundancy, potential for lawsuits, anger, political headaches etc. All of these things are already regulated by the state in the same manner that Cleveland proposes, and Cleveland has the full, unlimited ability to use these existing state laws. Ohio already expressed the intent for firearm laws to be uniform across Ohio, and courts recognize the power of the General Assembly to do so.

There is no legitimate government interest served by Cleveland making this same conduct illegal a second time.

Passage of these proposed ordinances gives Cleveland no new power or tools. This is a 100% downside, 0% upside situation. Cleveland gains nothing but trouble.

The gun offender registry

628.01- 628.99	Gun Offender Registry
-------------------	-----------------------

This series of ordinances is collectively referred to as “the gun offender registry.” The gun offender registry recognizes that violence is a person problem, not a tool problem. This is a refreshing acknowledgment from Cleveland. Countless studies and statistics have documented one conclusion – most violent crime is committed by a very miniscule subset of the population. This subset tends to be younger, male and they committed their first violent offense as a juvenile.

There are several problems with Cleveland’s proposed gun offender registry. In the spirit of cooperation, these problems are identified today, with the hope that council amends these ordinances accordingly. That is not to say that pro-gun groups will “support” passage, but addressing these issues will go a long way towards removing potential objections.

- 1.) Only felony gun offenses, or offenses of violence that involve guns, should trigger registration. Offenses should include any juvenile adjudication for these same offenses.
- 2.) Cleveland should track all inquiries to the registry and the results (charges, crime solved by no charges, no hit etc). The number inquiries, and results, must be public record.

- 3.) The registry information provided by a registrant is not public record, other than the name and address of person registered.
- 4.) Narrow the information the registrant must provide. 628.02(e)(5)-(9) are abusive and overbroad/redundant.
- 5.) Include an automatic 5 year review and sunset provision for the registry, unless the Director can show council that the registry is solving crimes.
- 6.) Explicitly state that a person with a sealed or restored conviction need not register.
- 7.) Remove the open-ended “any other information required by the Director” provision in 628.02(f).
- 8.) A registrant need not report a new address outside of the city of Cleveland if they move; instead, the registrant need only report that they no longer reside at the registered address and no longer reside in Cleveland.
- 9.) Add a provision requiring removal of a registrant from the registry if the registrant obtains a sealing of the record, restoration of rights or pardon.

Ordinances that do not regulate firearms and will not face action

627.01	Definition Section
627.10	Notification of prohibited weapon recovered on school grounds
627.11	Possessing non-firearm weapons in public
627.15	Prohibiting transactions in non-firearm weapons
627.19	Using replica/toy firearms
621.21-621.27	Non-firearm regulations

These ordinances do not impact gun owners. In fact, only 627.01 and 627.10 even mention firearms, but do so in a manner that does not impact gun owner rights. With regard to 627.11, .15, .19, and .21 through .27, council might seriously question the level of violence that is caused by pea shooters, billies, ballistic knives, cestus, karate stick etc. Is this a valuable use of council’s resources? (A cestus is a dueling or boxing glove dating back to gladiatorial days.)

Ord. #	Summary	Analysis	Conclusion
627.01	Definition Section	Strictly a definition section. No criminal penalties. Largely duplicative with R.C. 2923.11	No action
627.02	CCW Prohibited	Duplicative with R.C. 2923.12	Unneeded
627.03	Limits firearm purchases to one per ninety days	Attempts to ration gun purchases	Clearly will not pass court review under R.C. 9.68
627.04	Using weapons while intoxicated	Duplicative with R.C. 2923.15	Unneeded
627.05	Improperly handling firearms in Motor Vehicle	Duplicative with R.C. 2923.16	Unneeded
627.06	Failure to secure dangerous ordnance	Duplicative with R.C. 2923.19	Unneeded
627.07	Firearm access to a minor	Duplicative with R.C. 2923.21 except the penalty is changed from a felony down to a misdemeanor	Clearly will not pass court review under general conflicts of law. Municipalities may not try to make a felony a misdemeanor
627.08	Underage purchase of a handgun	Duplicative with R.C. 2923.211	Unneeded
627.09	Improper discharge of firearm near prohibited premises	Duplicative with R.C. 2923.162	Unneeded
627.10	Notification of prohibited weapon recovered on school grounds	No criminal penalty	No action
627.11	Possessing non-firearm weapons in public	Not related to guns	No action
627.12	Summarily seizing and forfeiting firearms	Duplicative, and conflicting with, R.C. 2923.163 (section a of 627.12) and R.C. 2981.04 (section b of 627.12)	Almost certainly will not pass court review as the state has already regulated seizing firearms and forfeiting firearms
627.13	Reporting gun sales to the Police	Attempts to register gun transactions between non-dealers	Clearly will not pass court review under R.C. 9.68
627.14	Serial number defacing is prohibited, as is possession of a firearm with defaced serial numbers	Duplicative with R.C. 2923.201	Unneeded
627.15	Prohibiting transactions in non-firearm weapons	Not related to guns	No Action
627.16	Prohibiting transactions to felons or intoxicated persons	Duplicative with R.C. 2923.20 except that the penalty is changed from a felony down to a misdemeanor	Clearly will not pass court review under general conflicts of law. Municipalities may not try to make a felony a misdemeanor
627.17	Voluntary surrender of firearms	Duplicative with R.C. 2923.23	Unneeded
627.18	Reporting lost or stolen firearms	Duplicative with R.C. 2923.20(A)(5) (no blackline comparison possible)	Unneeded
627.19	Using replica/toy firearms	Not related to guns	No action
627.20	Replica Firearms into a school zone	Duplicative with R.C. 2923.122	Unneeded
621.21-621.27	Non-firearm regulations	Regulating items such as pea-shooters	No action
628.01-628.99	Gun Offender Registry	Too numerous to list	Needs further work

2923.21 Section 627.07 ~~Improperly furnishing firearms~~ Providing Access to minor Firearms to a Minor

(a) No person shall ~~do any of the following:~~

~~(1) Sell any~~ leave a firearm ~~to a~~ so as to allow access to the firearm by a person who is under eighteen ~~years of age;~~

~~(2) Subject to division (B) of this section, sell any handgun to a person who is under twenty one years of age;~~

~~(3) Furnish any firearm to a person who is under eighteen years of age or, subject to division (B) of this section, furnish any handgun to a person who is under twenty one years of age, except for lawful hunting, sporting, or educational purposes, including, but not limited to, instruction in firearms or handgun safety, care, handling, or marksmanship under the supervision ~~or~~ and control of a responsible adult;~~

~~(4) Sell or furnish a firearm to a person who is eighteen years of age or older if the seller or furnisher knows, or has reason to know, that the person is purchasing or receiving the firearm for the purpose of selling the firearm in violation of division (A)(1) of this section to a person who is under eighteen years of age or for the purpose of furnishing the firearm in violation of division (A)(3) of this section to a person who is under eighteen years of age;~~

~~(5) Sell or furnish a handgun to a person who is twenty one years of age or older if the seller or furnisher knows, or has reason to know, that the person is purchasing or receiving the handgun for the purpose of selling the handgun in violation of division (A)(2) of this section to a person who is under twenty one years of age or for the purpose of furnishing the handgun in violation of division (A)(3) of this section to a person who is under twenty one years of age;~~

~~(6) Purchase or attempt to purchase any firearm with the intent to sell the firearm in violation of division (A)(1) of this section to a person who is under eighteen years of age or with the intent to furnish the firearm in violation of division (A)(3) of this section to a person who is under eighteen years of age;~~

~~(7) Purchase or attempt to purchase any handgun with the intent to sell the handgun in violation of division (A)(2) of this section to a person who is under twenty one years of age or with the intent to furnish the handgun in violation of division (A)(3) of this section to a person who is under twenty one years of age.~~

~~(B) Divisions (A)(1) and (2) of this section do not apply to the sale or furnishing of a handgun to a person eighteen years of age or older and under twenty one years of age if the person eighteen years of age or older and under twenty one years of age is a law enforcement officer who is properly appointed or employed as a law enforcement officer and has received firearms training approved by the Ohio peace officer training council or equivalent firearms training.~~

~~(C) Whoever violates this section is guilty of improperly furnishing firearms to a minor, a felony of the fifth degree.~~(b) A person who violates this section is guilty of a misdemeanor of the first degree.

(RC Section 2923.19)

Comment [KH1]: Clearly trying to change a felony to a misdemeanor

~~2923.20 Unlawful transaction in weapons.~~

~~(A) Section 627.16 Prohibition Against Transferring Firearms or Dangerous Ordnance to a Felon or Intoxicated Person~~

~~(a) No person shall:~~

~~(1) Recklessly- negligently sell, lend, give, or furnish any firearm to any person prohibited by Section 2923.13 or 2923.15 of the Revised Code from acquiring or using any firearm, or ~~recklessly~~negligently sell, lend, give, or furnish any dangerous ordnance to any person prohibited by Section 2923.13~~-,~~ 2923.15, or 2923.17 of the Revised Code from acquiring or using any dangerous ordnance~~;-~~;~~

~~(2) Possess any firearm or dangerous ordnance with purpose to dispose of it in violation of division (A) of this section;~~

~~(3) Manufacture, possess for sale, sell, or furnish to any (b) A person other than a law enforcement agency for authorized use in police work, any brass knuckles, cestus, billy, blackjack, sandbag, switchblade knife, springblade knife, gravity knife, or similar weapon;~~

~~(4) When transferring any dangerous ordnance to another, negligently fail to require the transferee to exhibit such identification, license, or permit showing him to be authorized to acquire dangerous ordnance pursuant to section 2923.17 of the Revised Code, or negligently fail to take a complete record of the transaction and forthwith forward a copy of that record to the sheriff of the county or safety director or police chief of the municipality where the transaction takes place;~~

~~(5) Knowingly fail to report to law enforcement authorities forthwith the loss or theft of any firearm or dangerous ordnance in the person's possession or under the person's control.~~

~~(B) Whoever who violates this section is guilty of unlawful transactions in weapons. A violation of division (A)(1) or (2) of this section is a felony of the fourth degree. A violation of division (A)(3) or (4) of this section is a misdemeanor of the second degree. A violation of division (A)(5) of this section is a misdemeanor of the fourth~~first~~ degree.~~

Comment [KH1]: Trying to change a violation of (A)(1) from a felony to a misdemeanor

~~2923.11 Weapons control definitions.~~

Section 627.01 Definitions

As used in ~~sections 2923.11 to 2923.24~~ of the Revised Code:

~~(A) "Deadly weapon" means any instrument, device, or thing capable of inflicting death, and designed or specially adapted for use as a weapon, or possessed, carried, or used as a weapon.~~

~~(B)~~

~~(1) "Firearm" means any deadly weapon capable of expelling or propelling one or more projectiles by the action of an explosive or combustible propellant. "Firearm" includes an unloaded firearm, and any firearm that is inoperable but that can readily be rendered operable.~~

~~(2) When determining whether a firearm is capable of expelling or propelling one or more projectiles by the action of an explosive or combustible propellant, the trier of fact may rely upon circumstantial evidence, including, but not limited to, the representations and actions of the individual exercising control over the firearm.~~

~~(C) "Handgun" means any of the following:~~

~~(1) Any firearm that has a short stock and is designed to be held and fired by the use of a single hand;~~

~~(2) Any combination of parts from which a firearm of a type described in division (C)(1) of this section can be assembled. Chapter:~~

~~(D) "Semi-automatic firearm" means any firearm designed or specially adapted to fire a single cartridge and automatically chamber a succeeding cartridge ready to fire, with a single function of the trigger.~~

~~(E) "(a) "Automatic firearm" means any firearm designed or specially adapted to fire a succession of cartridges with a single function of the trigger. "Automatic firearm" also means any semi-automatic firearm designed or specially adapted to fire more than thirty-one cartridges without reloading, other than a firearm chambering only .22-caliber short, long, or long rifle cartridges.~~

~~(F) "Sawed-off firearm" means a shotgun with a barrel less than eighteen inches long, or a rifle with a barrel less than sixteen inches long, or a shotgun or rifle less than twenty-six inches long overall.~~

~~(G) "Zip gun" means any of the following:~~

~~(1) Any firearm of crude and extemporized manufacture;~~

~~(2) Any device, including without limitation a starter's pistol, that is not designed as a firearm, but that is specially adapted for use as a firearm;~~

~~(3) Any industrial tool, signalling device, or safety device, that is not designed as a firearm, but that as designed is capable of use as such, when possessed, carried, or used as a firearm.~~

~~(H) "Explosive device" means any device designed or specially adapted to cause physical harm to persons or property by means of an explosion, and consisting of an explosive substance or agency and a means to detonate it. "Explosive device" includes without limitation any bomb, any explosive demolition device, any blasting cap or detonator containing an explosive charge, and any pressure vessel that has been knowingly tampered with or arranged so as to explode.~~

~~(I) "Incendiary device" means any firebomb, and any device designed or specially adapted to cause physical harm to persons or property by means of fire, and consisting of an incendiary substance or agency and a means to ignite it.~~

~~(J) caliber short, long, or long-rifle cartridges.~~

(b) "Ballistic knife" means a knife with a detachable blade that is propelled by a spring-operated mechanism.

~~(K) "Dangerous ordnance" means any of the following, except as provided in division (L) of this section:~~

~~(1) Any automatic or sawed-off firearm, zip gun, or ballistic knife;~~

~~(2) Any explosive device or incendiary device;~~

~~(3) Nitroglycerin, nitrocellulose, nitrostarch, PETN, cyclonite, TNT, picric acid, and other high explosives; amatol, tritonal, tetrytol, pentolite, peeretol, cyclotol, and other high explosive compositions; plastic explosives; dynamite, blasting gelatin, gelatin dynamite, sensitized ammonium nitrate, liquid oxygen blasting explosives, blasting powder, and other blasting agents; and any other explosive substance having sufficient brisance or power to be particularly suitable for use as a military explosive, or for use in mining, quarrying, excavating, or demolitions;~~

~~(4) Any firearm, rocket launcher, mortar, artillery piece, grenade, mine, bomb, torpedo, or similar weapon, designed and manufactured for military purposes, and the ammunition for that weapon;~~

~~(5) Any firearm muffler or silencer;~~

~~(6) Any combination of parts that is intended by the owner for use in converting any firearm or other device into a dangerous ordnance.~~

~~(L) "Dangerous ordnance" does not include any of the following:~~

~~(1) Any firearm, including a military weapon and the ammunition for that weapon, and regardless of its actual age, that employs a percussion cap or other obsolete ignition system, or that is designed and safe for use only with black powder;~~

~~(2) Any pistol, rifle, or shotgun, designed or suitable for sporting purposes, including a military weapon as issued or as modified, and the ammunition for that weapon, unless the firearm is an automatic or sawed-off firearm;~~

~~(3) Any cannon or other artillery piece that, regardless of its actual age, is of a type in accepted use prior to 1887, has no mechanical, hydraulic, pneumatic, or other system for absorbing recoil and returning the tube into battery without displacing the carriage, and is designed and safe for use only with black powder;~~

~~(4) Black powder, priming quills, and percussion caps possessed and lawfully used to fire a cannon of a type defined in division (L)(3) of this section during displays, celebrations, organized matches or shoots, and target practice, and smokeless and black powder, primers, and percussion caps possessed and lawfully used as a propellant or ignition device in small arms or small arms ammunition;~~

~~(5) Dangerous ordnance that is inoperable or inert and cannot readily be rendered operable or activated, and that is kept as a trophy, souvenir, curio, or museum piece.~~

~~(6) Any device that is expressly excepted from the definition of a destructive device pursuant to the "Gun Control Act of 1968," 82 Stat. 1213, 18 U.S.C. 921(a)(4), as amended, and regulations issued under that act.~~

~~(M) "Explosive" means any chemical compound, mixture, or device, the primary or common purpose of which is to function by explosion. "Explosive" includes all materials that have been classified as division 1.1, division 1.2, division 1.3, or division 1.4 explosives by the United States department of transportation in its regulations and includes, but is not limited to, dynamite, black powder, pellet powders, initiating explosives, blasting caps, electric blasting caps, safety fuses, fuse igniters, squibs, cordeau detonant fuses, instantaneous fuses, and igniter cords and igniters. "Explosive" does not include "fireworks," as defined in section 3743.01 of the Revised Code, or any substance or material otherwise meeting the definition of explosive set forth in this section that is manufactured, sold, possessed, transported, stored, or used in any activity described in section 3743.80 of the Revised Code, provided the activity is conducted in accordance with all applicable laws, rules, and regulations, including, but not limited to, the provisions of section 3743.80 of the Revised Code and the rules of the fire marshal adopted pursuant to section 3737.82 of the Revised Code.~~

~~(N)~~

~~(1) (c) "Concealed handgun license" or "license to carry a concealed handgun" means:~~

(1) Subject to ~~division (N)(2) of~~ this section, a license or temporary emergency license to carry a concealed handgun issued under Section 2923.125 or 2923.1213 of the Revised Code or a license to carry a concealed handgun issued by another state with which the attorney general has entered into a reciprocity agreement under Section 109.69 of the Revised Code.

(2) A reference in any provision of ~~the Revised~~this Code to a concealed handgun license issued under Section 2923.125 of the Revised Code or a license to carry a concealed handgun issued under Section 2923.125 of the Revised Code means only a license of the type that is specified in that section. A reference in any provision of ~~the Revised~~this Code to a concealed handgun license issued under Section 2923.1213 of the Revised Code, a license to carry a concealed handgun issued under Section 2923.1213 of the Revised Code, or a license to carry a concealed handgun on a temporary emergency basis means only a license of the type that is specified in Section 2923.1213 of the Revised Code. A reference in any provision of ~~the Revised~~this Code to a concealed handgun license issued by another state or a license to carry a concealed handgun issued by another state means only a license issued by another state with which the attorney general has entered into a reciprocity agreement under Section 109.69 of the Revised Code.

~~(O)~~ "(d) "Dangerous ordnance":

(1) means any of the following, except as otherwise provided in this section:

A. Any automatic or sawed-off firearm, zip-gun, or ballistic knife:

B. Any explosive device or incendiary device:

C. Nitrolycerin, nitrocellulose, nitrostarch, PETN, cyclonite, TNT, picric acid, and other high explosives; amatol, tritonal, tetrytol, pentolite, pecretol, cyclotol, and other high explosive compositions; plastic explosives; dynamite, blasting gelatin, gelatin dynamite, sensitized ammonium nitrate, liquid-oxygen blasting explosives, blasting powder, and other blasting agents; and any other explosive substance having sufficient brisance or power to be particularly suitable for use as a military explosive, or for use in mining, quarrying, excavating, or demolitions;

D. Any firearm, rocket launcher, mortar, artillery piece, grenade, mine, bomb, torpedo, or similar weapon, designed and manufactured for military purposes, and the ammunition for that weapon;

E. Any firearm muffler or silencer;

F. Any combination of parts that is intended by the owner for use in converting any firearm or other device into a dangerous ordinance.

(2) does not include any of the following:

A. Any firearm, including a military weapon and the ammunition for that weapon, and regardless of its actual age, that employs a percussion cap or other obsolete ignition system, or that is designed and safe for use only with black powder;

B. Any pistol, rifle, or shotgun, designed or suitable for sporting purposes, including a military weapon as issued or as modified, and the ammunition for that weapon, unless the firearm is an automatic or sawed- off firearm;

C. Any cannon or other artillery piece that, regardless of its actual age, is of a type in accepted use prior to 1887, has no mechanical, hydraulic, pneumatic, or other system for absorbing recoil and returning the tube into battery without displacing the carriage, and is designed and safe for use only with black powder;

D. Black powder, priming quills, and percussion caps possessed and lawfully used to fire a cannon on a type defined in this division during displays, celebrations, organized matches or shoots, and target practice, and smokeless and black powder, primers, and percussion caps possessed and lawfully used as a propellant or ignition device in small-arms or small- arms ammunition;

E. Dangerous ordnance that is inoperable or inert and cannot readily be rendered operable or activated, and that is kept as a trophy, souvenir, curio, or museum piece.

F. Any device that is expressly excepted from the definition of a destructive device pursuant to the “Gun Control Act of 1968,” 82 Stat. 1213, 18 U.S.C. 921(a)(4), as amended, and regulations issued under that act.

(e) “Deadly weapon” means any instrument, device or thing capable of inflicting death, and designed or specially adapted for use as a weapon, or possessed, carried, or used as a weapon.

(f) “Explosive” means any chemical compound, mixture, or device, the primary or common purpose of which is to function by explosion. “Explosive” includes all materials that have been classified as division 1.1, division 1.2, division 1.3, or division 1.4 explosives by the United States department of transportation in its regulations and includes, but is not limited to, dynamite, black powder, pellet powders, initiating explosives, blasting caps, electric blasting caps, safety fuses, fuse igniters, squibs, cordeau detonant fuses, instantaneous fuses, and igniter cords and igniters. “Explosive” does not include “fireworks,” as defined in Section 3743.01 of the Revised Code, or any substance or material otherwise meeting the definition of explosive set forth in this section that is manufactured, sold, possessed, transported, stored, or used in any activity described in Section 3743.80 of the Revised Code, provided the activity is conducted in accordance with all applicable laws, rules, and regulations, including, but not limited, the provisions of Section 3743.80 of the Revised Code and the rules of the fire marshal adopted pursuant to Section 3737.82 of the Revised Code.

(g) “Explosive device” means any device designed or specially adapted to cause physical harm to persons or property by means of an explosion, and consisting of an explosive substance or agency and a means to detonate it. “Explosive device” includes without limitation any bomb,

any explosive demolition device, any blasting cap or detonator containing an explosive charge, and any pressure vessel that has been knowingly tampered with or arranged so as to explode.

(h) (1) “Firearm” means any deadly weapon capable of expelling or propelling one or more projectiles by the action of an explosive or combustible propellant. “Firearm” includes an unloaded firearm, and any firearm that is inoperable but that can readily be rendered operable.

(2) When determining whether a firearm is capable of expelling or propelling one or more projectiles by the action of an explosive or combustible propellant, the trier of fact may rely upon circumstantial evidence, including, but not limited to, the representations and actions of the individual exercising control over the firearm.

(i) “Handgun” means any of the following:

(1) Any firearm that has a short stock and is designed to be held and fired by the use of a single hand;

(2) Any combination of parts from which a firearm of a type described in this division can be assembled.

(j) “Incendiary device” means any firebomb, and any device designed or specially adapted to cause physical harm to persons or property by means of fire, and consisting of an incendiary substance or agency and a means to ignite it.

(k) “Sawed-off-firearm” means a shotgun with a barrel less than eighteen inches long, or a rifle with a barrel less than sixteen inches long, or a shotgun or rifle less than twenty-six inches long overall.

(l) “Semi-automatic firearm” means any firearm designed or specially adapted to fire a single cartridge and automatically chamber a succeeding cartridge ready to fire, with a single function of the trigger.

(m) “Valid concealed handgun license” or “valid license to carry a concealed handgun” means a concealed handgun license that is currently valid, that is not under a suspension under division (A)(1) of Section 2923.128 of the Revised Code, under Section 2923.1213 of the Revised Code, or under a suspension provision of the state, other than this state in which the license was issued, and that has not been revoked under division (B)(1) of Section 2923.128 of the Revised Code, under Section 2923.1213 of the Revised Code, or under a revocation provision of the state other than this state in which the license was issued.

(n) “Zip-gun” means any of the following:

(1) Any firearm of crude and extemporized manufacture;

(2) Any device, including without limitation a starter’s pistol, that is not designed as a firearm, but that is specially adapted for use as a firearm;

(3) Any industrial tool, signaling device, or safety device, that is not designed as a firearm, but that as designed is capable of use as such, when possessed, carried, or used as a firearm.

(RC Section 2923.11)

~~2923.12~~ Section 627.02 Carrying Concealed Weapons:

(a) No person shall knowingly carry or have, concealed on the ~~person's~~ person's person or concealed ready at hand, any of the following:

- (1) A deadly weapon other than a handgun;
- (2) A handgun other than a dangerous ordnance;
- (3) A dangerous ordnance.

(b) No person who has been issued a concealed handgun license shall do any of the following:

(1) If the person is stopped for a law enforcement purpose and is carrying a concealed handgun, fail to promptly inform any law enforcement officer who approaches the person after the person has been stopped that the person has been issued a concealed handgun license and that the person then is carrying a concealed handgun;

(2) If the person is stopped for a law enforcement purpose and is carrying a concealed handgun, knowingly fail to keep the ~~person's~~ person's hands in plain sight at any time after any law enforcement officer begins approaching the person while stopped and before the law enforcement officer leaves, unless the failure is pursuant to and in accordance with directions given by a law enforcement officer;

~~(3) If the person is stopped for a law enforcement purpose, if the person is carrying a concealed handgun, and if the person is approached by any law enforcement officer while stopped, knowingly remove or attempt to remove the loaded handgun from the holster, pocket, or other place in which the person is carrying it, knowingly grasp or hold the loaded handgun, or knowingly have contact with the loaded handgun by touching it with the person's hands or fingers at any time after the law enforcement officer begins approaching and before the law enforcement officer leaves, unless the person removes, attempts to remove, grasps, holds, or has contact with the loaded handgun pursuant to and in accordance with directions given by the law enforcement officer;~~

~~(4)~~ (3) If the person is stopped for a law enforcement purpose and is carrying a concealed handgun, knowingly disregard or fail to comply with any lawful order of any law enforcement officer given while the person is stopped, including, but not limited to, a specific order to the person to keep the ~~person's~~ person's hands in plain sight.

(c)

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

~~(a)~~ 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 concealed weapons or dangerous ordnance or is

authorized to carry handguns and is acting within the scope of the ~~officer's, agent's~~officer's agent's, or ~~employee's~~employee's duties;

~~(b)~~B. Any person who is employed in this state, who is authorized to carry concealed weapons or dangerous ordnance or is authorized to carry handguns, 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 (C)(1)(b)~~of this section does not apply to the person;

~~(c)~~C. A ~~person's~~person's transportation or storage of a firearm, other than a firearm described in divisions ~~(G) to (Mb)~~, (d), (f), (g), (j) and (n) of Section ~~2923.11627.01~~ of ~~the Revised~~this Code, in a motor vehicle for any lawful purpose if the firearm is not on the ~~actor's~~actor's person;

~~(d)~~D. A ~~person's~~person's storage or possession of a firearm, other than a firearm described in divisions ~~(G) to (Mb)~~, (d), (f), (g), (j) and (n) of Section ~~2923.11627.01~~ of ~~the Revised~~this Code, in the ~~actor's~~actor's own home for any lawful purpose.

(2) Division (a)(2) of this section does not apply to any person who, at the time of the alleged carrying or possession of a handgun, is carrying a valid concealed handgun license, unless the person knowingly is in a place described in division (B) of Section 2923.126 of the Revised Code.

(d) 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 and other than a dangerous ordnance that the actor was not otherwise prohibited by law from having the weapon and that any of the following applies:

(1) The weapon was carried or kept ready at hand by the actor for defensive purposes while the actor was engaged in or was going to or from the ~~actor's~~actor's lawful business or occupation, which business or occupation was of a character or was necessarily carried on in a manner or at a time or place as to render the actor particularly susceptible to criminal attack, such as would justify a prudent person in going armed.

(2) The weapon was carried or kept ready at hand by the actor for defensive purposes while the actor was engaged in a lawful activity and had reasonable cause to fear a criminal attack upon the actor, a member of the ~~actor's~~actor's family, or the ~~actor's~~actor's home, such as would justify a prudent person in going armed.

(3) The weapon was carried or kept ready at hand by the actor for any lawful purpose and while in the ~~actor's~~actor's own home.

~~(E)~~(e) No person who is charged with a violation of this section shall be required to obtain a concealed handgun license as a condition for the dismissal of the charge.

(f)

(1) Whoever violates this section is guilty of carrying concealed weapons. Except as otherwise provided in this division ~~or division (F)(2) of this section~~, carrying concealed weapons in violation of division (a)(1) and (a)(2) of this section is a misdemeanor of the first degree. ~~Except as otherwise provided This section shall not apply in this division or division (F)(2) of this section, if the offender previously has been convicted of a violation of this section or of any offense of violence, if the weapon involved is a firearm that is either loaded or for case in which the offender has ammunition ready at hand, or if the weapon involved is dangerous ordnance, carrying concealed weapons in violation of division (A) of this section is conduct constitutes a felony of the fourth degree. Except as otherwise provided in division (F)(2) of this section, if the offense is committed aboard an aircraft, or with purpose to carry a concealed weapon aboard an aircraft, regardless of the weapon involved, carrying concealed weapons in violation of division (A) of this section is a felony of the third degree. under the laws of the State of Ohio.~~

(2) If a person being arrested for a violation of division (a)(2) of this section promptly produces a valid concealed handgun license, and if at the time of the violation the person was not knowingly in a place described in division (B) of Section 2923.126 of the Revised Code, the officer shall not arrest the person for a violation of that division. If the person is not able to promptly produce any concealed handgun license and if the person is not in a place described in that section, the officer may arrest the person for a violation of that division, and the offender shall be punished as follows:

~~(a)A.~~ The offender shall be guilty of a minor misdemeanor if both of the following apply:

~~(i)1.~~ Within ten days after the arrest, the offender presents a concealed handgun license, which license was valid at the time of the arrest to the law enforcement agency that employs the arresting officer.

~~(ii)2.~~ At the time of the arrest, the offender was not knowingly in a place described in division (B) of Section 2923.126 of the Revised Code.

~~(b)B.~~ The offender shall be guilty of a misdemeanor and shall be fined five hundred dollars if all of the following apply:

~~(i)1.~~ The offender previously had been issued a concealed handgun license, and that license expired within the two years immediately preceding the arrest.

~~(ii)2.~~ Within forty-five days after the arrest, the offender presents a concealed handgun license to the law enforcement agency that employed the arresting officer, and the offender waives in writing the ~~offender's~~ offender's right to a speedy trial on the charge of the violation that is provided in Section 2945.71 of the Revised code.

~~(iii)3.~~ At the time of the commission of the offense, the offender was not knowingly in a place described in Division (B) of Section 2923.126 of the Revised Code.

~~(e)C.~~ If neither division (f)(2)~~(a)A.~~ nor ~~(b)B.~~ of this section applies, the offender shall be punished under division (f)(1) of this section.

(3) Except as otherwise provided in this division, carrying concealed weapons in violation of division (b)(1) of this section is a misdemeanor of the first degree, and, in addition to any other penalty or sanction imposed for a violation of division (b)(1) of this section, the ~~offender's~~offender's concealed handgun license shall be suspended pursuant to division (A)(2) of Section 2923.128 of the Revised Code. If, at the time of the stop of the offender for a law enforcement purpose that was the basis of the violation, any law enforcement officer involved with the stop had actual knowledge that the offender has been issued a concealed handgun license, carrying concealed weapons in violation of division (b)(1) of this section is a minor misdemeanor, and the ~~offender's~~offender's concealed handgun license shall not be suspended pursuant to division (A)(2) of Section ~~2923.128 of the Revised Code.~~
2923.128 of the Revised Code.

(4) Carrying concealed weapons in violation of division (b)(2) or ~~(43)~~ of this section is a misdemeanor of the first degree ~~or, if the offender previously has been convicted of or pleaded guilty to a violation of division (B)(2) or (4) of this section, a felony of the fifth degree.~~ In addition to any other penalty or sanction imposed for ~~a~~ misdemeanor violation of division (b)(2) or ~~(43)~~ of this section, the ~~offender's~~offender's concealed handgun license shall be suspended pursuant to division (A)(2) of Section 2923.128 of the Revised Code.

~~(5) Carrying concealed weapons in violation of division (B)(3) of this section is a felony of the fifth degree.~~

~~(G)~~(g) If a law enforcement officer stops a person to question the person regarding a possible violation of this section, for a traffic stop, or for any other law enforcement purpose, if the person surrenders a firearm to the officer, either voluntarily or pursuant to a request or demand of the officer, and if the officer does not charge the person with a violation of this section or arrest the person for any offense, the person is not otherwise prohibited by law from possessing the firearm, and the firearm is not contraband, the officer shall return the firearm to the person at the termination of the stop. If a court orders a law enforcement officer to return a firearm to a person pursuant to the requirement set forth in this division, division (B) of Section 2923.163 of the Revised Code applies.

(RC Section 2923.12)

~~2923.15~~ Section 627.04 Using Weapons While Intoxicated.

(a) No person, while under the influence of alcohol or any drug of abuse, shall carry or use any firearm or dangerous ordnance.

(b) Whoever violates this section is guilty of using weapons while intoxicated, a misdemeanor of the first degree.

(RC Section 2923.15)

~~2923.16~~ Section 627.05 Improperly Handling Firearms in a Motor Vehicle:

~~(A) No person shall knowingly discharge a firearm while in or on a motor vehicle.~~

~~(B) No person shall knowingly transport or have a loaded firearm in a motor vehicle in such a manner that the firearm is accessible to the operator or any passenger without leaving the vehicle.~~

~~(C)~~ (a) No person shall knowingly transport or have a firearm in a motor vehicle, unless the person may lawfully possess that firearm under applicable law of this state or the United States, the firearm is unloaded, and the firearm is carried in one of the following ways:

- (1) In a closed package, box, or case;
- (2) In a compartment that can be reached only by leaving the vehicle;
- (3) In plain sight and secured in a rack or holder made for the purpose;
- (4) If the firearm is at least twenty-four inches in overall length as measured from the muzzle to the part of the stock furthest from the muzzle and if the barrel is at least eighteen inches in length, either in plain sight with the action open or the weapon stripped, or, if the firearm is of a type on which the action will not stay open or which cannot easily be stripped, in plain sight.

~~(D) No person shall knowingly transport or have a loaded handgun in a motor vehicle if, at the time of that transportation or possession, any of the following applies:~~

~~(1) The person is under the influence of alcohol, a drug of abuse, or a combination of them.~~

~~(2) The person's whole blood, blood serum or plasma, breath, or urine contains a concentration of alcohol, a listed controlled substance, or a listed metabolite of a controlled substance prohibited for persons operating a vehicle, as specified in division (A) of section 4511.19 of the Revised Code, regardless of whether the person at the time of the transportation or possession as described in this division is the operator of or a passenger in the motor vehicle.~~

~~(E)~~ (b) No person who has been issued a concealed handgun license, who is the driver or an occupant of a motor vehicle that is stopped as a result of a traffic stop or a stop for another law enforcement purpose or 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 5503.34 of the Revised Code, and who is transporting or has a loaded handgun in the motor vehicle or commercial motor vehicle in any manner, shall do any of the following:

- (1) Fail to promptly inform any law enforcement officer who approaches the vehicle while stopped that the person has been issued a concealed handgun license and that the person then possesses or has a loaded handgun in the motor vehicle;

(2) Fail to promptly inform the employee of the unit who approaches the vehicle while stopped that the person has been issued a concealed handgun license and that the person then possesses or has a loaded handgun in the commercial motor vehicle;

(3) Knowingly fail to remain in the motor vehicle while stopped or knowingly fail to keep the ~~person's~~person's hands in plain sight at any time after any law enforcement officer begins approaching the person while stopped and before the law enforcement officer leaves, unless the failure is pursuant to and in accordance with directions given by a law enforcement officer;

~~(4) Knowingly have contact with the loaded handgun by touching it with the person's hands or fingers in the motor vehicle at any time after the law enforcement officer begins approaching and before the law enforcement officer leaves, unless the person has contact with the loaded handgun pursuant to and in accordance with directions given by the law enforcement officer;~~

~~(5)~~(4) Knowingly disregard or fail to comply with any lawful order of any law enforcement officer given while the motor vehicle is stopped, including, but not limited to, a specific order to the person to keep the ~~person's~~person's hands in plain sight.

~~(F)~~

(c)

(1) Divisions (a), ~~(B), (C),~~ and ~~(E)~~(b) of this section do not apply to any of the following:

~~(a)~~A. An officer, agent, or employee of this or any other state or the United States, or a law enforcement officer, when authorized to carry or have loaded or accessible firearms in motor vehicles and acting within the scope of the ~~officer's, agent's~~officer's, agent's, or ~~employee's~~employee's duties;

~~(b)~~B. Any person who is employed in this state, who is authorized to carry or have loaded or accessible firearms in motor vehicles, 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 this division ~~(F)(1)(b) of this section~~ does not apply to the person.

(2) Division (a) of this section does ~~not apply to a person if all of the following circumstances apply:~~

~~(a) The person discharges a firearm from a motor vehicle at a coyote or groundhog, the discharge is not during the deer gun hunting season as set by the chief of the division of wildlife of the department of natural resources, and the discharge at the coyote or groundhog, but for the operation of this section, is lawful.~~

~~(b) The motor vehicle from which the person discharges the firearm is on real property that is located in an unincorporated area of a township and that either is zoned for agriculture or is used for agriculture.~~

~~(c) The person owns the real property described in division (F)(2)(b) of this section, is the spouse or a child of another person who owns that real property, is a tenant of another person who owns that real property, or is the spouse or a child of a tenant of another person who owns that real property.~~

~~(d) The person does not discharge the firearm in any of the following manners:~~

~~(i) While under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse;~~

~~(ii) In the direction of a street, highway, or other public or private property used by the public for vehicular traffic or parking;~~

~~(iii) At or into an occupied structure that is a permanent or temporary habitation;~~

~~(iv) In the commission of any violation of law, including, but not limited to, a felony that includes, as an essential element, purposely or knowingly causing or attempting to cause the death of or physical harm to another and that was committed by discharging a firearm from a motor vehicle.~~

~~(3) Division (A) of this section does not apply to a person if all of the following apply:~~

~~(a) The person possesses a valid electric powered all purpose vehicle permit issued under section 1533.103 of the Revised Code by the chief of the division of wildlife.~~

~~(b) The person discharges a firearm at a wild quadruped or game bird as defined in section 1531.01 of the Revised Code during the open hunting season for the applicable wild quadruped or game bird.~~

~~(c) The person discharges a firearm from a stationary electric powered all purpose vehicle as defined in section 1531.01 of the Revised Code or a motor vehicle that is parked on a road that is owned or administered by the division of wildlife, provided that the road is identified by an electric powered all purpose vehicle sign.~~

~~(d) The person does not discharge the firearm in any of the following manners:~~

~~(i) While under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse;~~

~~(ii) In the direction of a street, a highway, or other public or private property that is used by the public for vehicular traffic or parking;~~

~~(iii) At or into an occupied structure that is a permanent or temporary habitation;~~

~~(iv) In the commission of any violation of law, including, but not limited to, a felony that includes, as an essential element, purposely or knowingly causing or attempting to cause the death of or physical harm to another and that was committed by discharging a firearm from a motor vehicle.~~

~~(4) Divisions (B) and (C) of this section do not apply to a person if all of the following circumstances apply:~~

~~(a) At the time of the alleged violation of either of those divisions, the person is the operator of or a passenger in a motor vehicle.~~

~~(b) The motor vehicle is on real property that is located in an unincorporated area of a township and that either is zoned for agriculture or is used for agriculture.~~

~~(c) The person owns the real property described in division (D)(4)(b) of this section, is the spouse or a child of another person who owns that real property, is a tenant of another person who owns that real property, or is the spouse or a child of a tenant of another person who owns that real property.~~

~~(d) The person, prior to arriving at the real property described in division (D)(4)(b) of this section, did not transport or possess a firearm in the motor vehicle in a manner prohibited by division (B) or (C) of this section while the motor vehicle was being operated on a street, highway, or other public or private property used by the public for vehicular traffic or parking.~~

~~(5) Divisions (B) and (C) of this section do not apply to a person who transports or possesses a handgun in a motor vehicle if, at the time of that transportation or possession, both of the following apply:~~

~~(a) A. The person transporting or possessing the handgun is carrying a valid concealed handgun license.~~

~~(b) B. The person transporting or possessing the handgun is not knowingly in a place described in division (B) of Section 2923.126 of the Revised Code.~~

~~(6) Divisions (B) and (C)~~

~~(3) Division (a) of this section ~~does~~ not apply to a person if all of the following apply:~~

~~(a) A. The person possesses a valid electric-powered all-purpose vehicle permit issued under Section 1533.103 of the Revised Code by the chief of the division of wildlife.~~

~~(b) B. The person is on or in an electric-powered all-purpose vehicle as defined in Section 1531.01 of the Revised Code or a motor vehicle during the open hunting season for a wild quadruped or game bird.~~

~~(e)C.~~ The person is on or in an electric-powered all-purpose vehicle as defined in Section 1531.01 of the Revised Code or a motor vehicle that is parked on a road that is owned or administered by the division of wildlife, provided that the road is identified by an electric-powered all-purpose vehicle sign.

~~(7) Nothing in this section prohibits or restricts a person from possessing, storing, or leaving a firearm in a locked motor vehicle that is parked in the state underground parking garage at the state capitol building or in the parking garage at the Riffe center for government and the arts in Columbus, if the person's transportation and possession of the firearm in the motor vehicle while traveling to the premises or facility was not in violation of division (A), (B), (C), (D), or (E) of this section or any other provision of the Revised Code.~~

~~(G)~~

~~(d)~~ (1) The affirmative defenses authorized in divisions (d)(1) and (2) of Section ~~2923.12 of the Revised Code~~627.02 are affirmative defenses to a charge under division ~~(B) or (Ca)~~ of this section that involves a firearm other than a handgun.

(2) It is an affirmative defense to a charge under division ~~(B) or (Ca)~~ of this section of improperly handling firearms in a motor vehicle that the actor transported or had the firearm in the motor vehicle for any lawful purpose and while the motor vehicle was on the ~~actor's~~actor's own property, provided that this affirmative defense is not available unless the person, immediately prior to arriving at the ~~actor's~~actor's own property, did not transport or possess the firearm in a motor vehicle in a manner prohibited by division ~~(B) or (Ca)~~ of this section while the motor vehicle was being operated on a street, highway, or other public or private property used by the public for vehicular traffic.

~~(H)~~

~~(1)e)~~ No person who is charged with a violation of division ~~(B), (C), or (Da)~~ of this section shall be required to obtain a concealed handgun license as a condition for the dismissal of the charge.

~~(2)~~

~~(a) If a person is convicted of, was convicted of, pleads guilty to, or has pleaded guilty to a violation of division (E) of this section as it existed prior to September 30, 2011, and if the conduct that was the basis of the violation no longer would be a violation of division (E) of this section on or after September 30, 2011, the person may file an application under section 2953.37 of the Revised Code requesting the expungement of the record of conviction.~~

~~If a person is convicted of, was convicted of, pleads guilty to, or has pleaded guilty to a violation of division (B) or (C) of this section as the division existed prior to September 30, 2011, and if the conduct that was the basis of the violation no longer would be a violation of division (B) or (C) of this section on or after September 30, 2011, due to the application of division (F)(5) of this~~

~~section as it exists on and after September 30, 2011, the person may file an application under section 2953.37 of the Revised Code requesting the expungement of the record of conviction.~~

~~(b) The attorney general shall develop a public media advisory that summarizes the expungement procedure established under section 2953.37 of the Revised Code and the offenders identified in division (H)(2)(a) of this section who are authorized to apply for the expungement. Within thirty days after September 30, 2011, the attorney general shall provide a copy of the advisory to each daily newspaper published in this state and each television station that broadcasts in this state. The attorney general may provide the advisory in a tangible form, an electronic form, or in both tangible and electronic forms.~~

~~(I-f)~~ (F) Whoever violates this section is guilty of improperly handling firearms in a motor vehicle. Violation of division (a) of this section is a ~~felony of the fourth degree. Violation of division (C) of this section is a~~ misdemeanor of the fourth degree. ~~A violation of division (D) of this section is a felony of the fifth degree or, if the loaded handgun is concealed on the person's person, a felony of the fourth degree.~~ Except as otherwise provided in this division, a violation of division ~~(E)~~ (E)(1) or (2) of this section is a misdemeanor of the first degree, and, in addition to any other penalty or sanction imposed for the violation, the ~~offender's~~ offender's concealed handgun license shall be suspended pursuant to division (A)(2) of Section 2923.128 of the Revised Code. If at the time of the stop of the offender for a traffic stop, for another law enforcement purpose, or for a purpose defined in Section 5503.34 of the Revised Code that was the basis of the violation any law enforcement officer involved with the stop or the employee of the motor carrier enforcement unit who made the stop had actual knowledge of the ~~offender's~~ offender's status as a licensee, a violation of division ~~(E)~~ (E)(1) or (2) of this section is a minor misdemeanor, and the ~~offender's~~ offender's concealed handgun license shall not be suspended pursuant to division (A)(2) of Section 2923.128 of the Revised Code. A violation of division ~~(E)(b)(3) or (4)~~ (E)(b)(3) or (4) of this section is a ~~felony of the fifth degree. A violation of division (E)(3) or (5) of this section is a~~ misdemeanor of the first degree ~~or, if the offender previously has been convicted of or pleaded guilty to a violation of division (E)(3) or (5) of this section, a felony of the fifth degree.~~ In addition to any other penalty or sanction imposed for a misdemeanor violation of division ~~(E)~~ (E)(3) or ~~(5)~~ (5) of this section, the ~~offender's~~ offender's concealed handgun license shall be suspended pursuant to division (A)(2) of Section 2923.128 of the Revised Code. ~~A violation of division (B) of this section is a felony of the fourth degree.~~

~~(J-g)~~ (G) If a law enforcement officer stops a motor vehicle for a traffic stop or any other purpose, if any person in the motor vehicle surrenders a firearm to the officer, either voluntarily or pursuant to a request or demand of the officer, and if the officer does not charge the person with a violation of this section or arrest the person for any offense, the person is not otherwise prohibited by law from possessing the firearm, and the firearm is not contraband, the officer shall return the firearm to the person at the termination of the stop. If a court orders a law enforcement officer to return a firearm to a person pursuant to the requirement set forth in this division, division (B) of Section 2923.163 of the Revised Code applies.

~~(K-h)~~ (H) As used in this section:

(1) ~~"~~ "Motor vehicle," ~~"~~ "street," ~~"~~ "highway" have the same meanings as in Section 4511.01 of the Revised Code.

~~(2) "Occupied structure" has the same meaning as in section 2909.01 of the Revised Code.~~

~~(3) "Agriculture" has the same meaning as in section 519.01 of the Revised Code.~~

~~(4) "Tenant" has the same meaning as in section 1531.01 of the Revised Code.~~

~~(5)~~

~~(a) "~~ "Unloaded" means ~~;~~:

A. With respect to a firearm other than a firearm described in division ~~(K)~~(h)(6) of this section, that no ammunition is in the firearm in question, no magazine or speed loader containing ammunition is inserted into the firearm in question, and one of the following applies:

~~(i)~~1. There is no ammunition in a magazine or speed loader that is in the vehicle in question and that may be used with the firearm in question.

~~(ii)~~2. Any magazine or speed loader that contains ammunition and that may be used with the firearm in question is stored in a compartment within the vehicle in question that cannot be accessed without leaving the vehicle or is stored in a container that provides complete and separate enclosure.

~~(b)~~B. For the purposes of division ~~(K)(5)(a)(ii)(h)(2)A.2.~~ of this section, a ~~"~~ "container that provides complete and separate enclosure" includes, but is not limited to, any of the following:

~~(i)~~1. A package, box, or case with multiple compartments, as long as the loaded magazine or speed loader and the firearm in question either are in separate compartments within the package, box, or case, or, if they are in the same compartment, the magazine or speed loader is contained within a separate enclosure in that compartment that does not contain the firearm and that closes using a snap, button, buckle, zipper, hook and loop closing mechanism, or other fastener that must be opened to access the contents or the firearm is contained within a separate enclosure of that nature in that compartment that does not contain the magazine or speed loader;

~~(ii)~~2. A pocket or other enclosure on the person of the person in question that closes using a snap, button, buckle, zipper, hook and loop closing mechanism, or other fastener that must be opened to access the contents.

~~(c)~~C. For the purposes of ~~divisions (K)(5)(a)~~division (h)(2)A. and ~~(b)~~B. of this section, ammunition held in stripper-clips or in en-bloc clips is not considered ammunition that is loaded into a magazine or speed loader.

(6) “Unloaded” means, with respect to a firearm employing a percussion cap, flintlock, or other obsolete ignition system, when the weapon is uncapped or when the priming charge is removed from the pan.

(7) “Commercial motor vehicle” has the same meaning as in division (A) of Section 4506.25 of the Revised Code.

(8) “Motor carrier enforcement unit” means the motor carrier enforcement unit in the department of public safety, division of state highway patrol, that is created by Section 5503.34 of the Revised Code.

~~(L)~~(i) Divisions ~~(K)~~(5)(a)~~A.~~ and ~~(B)~~B. of this section do not affect the authority of a person who is carrying a valid concealed handgun license to have one or more magazines or speed loaders containing ammunition anywhere in a vehicle, without being transported as described in those divisions, as long as no ammunition is in a firearm, other than a handgun, in the vehicle other than as permitted under any other provision of this chapter. A person who is carrying a valid concealed handgun license may have one or more magazines or speed loaders containing ammunition anywhere in a vehicle without further restriction, as long as no ammunition is in a firearm, other than a handgun, in the vehicle other than as permitted under any provision of this chapter.

(RC Section 2923.16)

| ~~2923.19~~ Section 627.06 Failure to Secure Dangerous Ordnance:

| (a) No person, in acquiring, possessing, carrying, or using any dangerous ordnance, shall negligently fail to take proper precautions:

| (1) To secure the dangerous ordnance against theft, or against its acquisition or use by any unauthorized or incompetent person;

(2) To insure the safety of persons and property.

(b) Whoever violates this section is guilty of failure to secure dangerous ordnance, a misdemeanor of the second degree.

~~2923.211~~ Section 627.08 Underage Purchase of ~~firearm or handgun~~. Firearms

~~(A) No person under eighteen years of age shall purchase or attempt to purchase a firearm.~~

~~(B)~~ (a) No person under twenty-one years of age shall purchase or attempt to purchase a handgun, provided that this division does not apply to the purchase or attempted purchase of a handgun by a person eighteen years of age or older and under twenty-one years of age if either of the following apply:

(1) The person is a law enforcement officer who is properly appointed or employed as a law enforcement officer and has received firearms training approved by the Ohio peace officer training council or equivalent firearms training.

(2) The person is an active or reserve member of the armed services of the United States or the Ohio national guard, or was honorably discharged from military service in the active or reserve armed services of the United States or the Ohio national guard, and the person has received firearms training from the armed services or the national guard or equivalent firearms training.

~~(C)~~ b Whoever violates ~~division (A) of this section is guilty of underage purchase of a firearm, a delinquent act that would be a felony of the fourth degree if it could be committed by an adult.~~ Whoever violates ~~division (B) of this section~~ is guilty of underage purchase of a handgun, a misdemeanor of the second degree.

(RC Section 2923.211)

~~2923.162 Discharge of~~ Section 627.09 Improperly Discharging a Firearm on or near Prohibited Premises:

(a) No person shall do any of the following:

(1) Without permission from the proper officials and subject to division (b)(~~14~~) of this section, discharge a firearm upon or over a cemetery or within one hundred yards of a cemetery;

(2) Subject to division (b)(~~25~~) of this section, discharge a firearm on a lawn, park, pleasure ground, orchard, or other ground appurtenant to a schoolhouse, church, or inhabited dwelling, the property of another, or a charitable institution;

(3) Discharge a firearm upon or over a public road or highway.;

~~(B)~~

~~(4) Division (A)(1)(4) Discharge a firearm within five hundred (500) feet of the grounds of any park, playground, or recreation center owned by the City.~~

~~(b)~~ This section does not apply to the following:

~~(1)~~ A person acting in self-defense or otherwise with privilege to do so;

~~(2)~~ A law enforcement or corrections officer acting within the course and scope of the officer's employment or official duties;

~~(3)~~ Security personnel acting within the course and scope of their employment;

~~(4)~~ A person who, while on the ~~person's~~ person's own ~~land~~ property, discharges a firearm.;
and

~~(2) Division (A)(2) of this section does not apply to (5)~~ A person who owns any type of property described in ~~that~~ division ~~(a)(2)~~ and who, while on the ~~person's~~ person's own enclosure, discharges a firearm.

~~(c) Whoever~~ Any person who violates this section is guilty of ~~discharge of a firearm on or near prohibited premises. A violation of division (A)(1) or (2) of this section is a misdemeanor of the fourth degree. A violation of division (A)(3) of this section shall be punished as follows:~~

~~(1) Except as otherwise provided in division (C)(2), (3), or (4) of this section, a violation of division (A)(3) of this section is a misdemeanor of the first degree.~~

~~(2) Except as otherwise provided in division (C)(3) or (4) of this section, if the violation created a substantial risk of physical harm to any person or caused serious physical harm to property, a violation of division (A)(3) of this section is a felony of the third degree.~~

~~(3) Except as otherwise provided in division (C)(4) of this section, if the violation caused physical harm to any person, a violation of division (A)(3) of this section is a felony of the second degree.~~

~~(4) If the violation caused serious physical harm to any person, a violation of division (A)(3) of this section is a felony of the first degree.(RC Section 2923.162)~~

~~2923.201~~Section 627.14 Defacing Identification Marks of Firearms; Possessing Defaced Firearm

~~(a defaced firearm.~~

~~(A)~~ No person shall do either of the following:

(1) Change, alter, remove, or obliterate the name of the manufacturer, model, ~~manufacturer's~~ serial number, or other mark of identification on a firearm.

(2) Possess a firearm knowing or having reasonable cause to believe that the name of the manufacturer, model, ~~manufacturer's~~ serial number, or other mark of identification on the firearm has been changed, altered, removed, or obliterated.

(b) (1) Whoever violates division (a)(1) of this section is guilty of defacing identification marks of a firearm. Except as otherwise provided in this division, defacing identification marks of a firearm is a misdemeanor of the first degree. ~~If the offender previously has been convicted of or pleaded guilty to a violation of division (A)(1) of this section, defacing identification marks of a firearm is a felony of the fourth degree.~~

(2) Whoever violates division (a)(2) of this section is guilty of possessing a defaced firearm. Except as otherwise provided in this division, possessing a defaced firearm is a misdemeanor of the first degree. ~~If the offender previously has been convicted of or pleaded guilty to a violation of division (A)(2) of this section, possessing a defaced firearm is a felony of the fourth degree.~~

(c) Division (a) of this section does not apply to any firearm on which no ~~manufacturer's~~ serial number was inscribed at the time of its manufacture.

(RC Section 2923.201)

~~2923.23~~ Section 627.17 Voluntary Surrender of Firearms and Dangerous Ordnance.

(a) No person who acquires, possesses, or carries a firearm or dangerous ordnance in violation of Section 2923.13 or 2923.17 of the Revised Code shall be prosecuted for such violation, if he reports his possession of firearms or dangerous ordnance to any law enforcement authority, describes the firearms or [or] dangerous ordnance in his possession and where they may be found, and voluntarily surrenders the firearms or dangerous ordnance to the law enforcement authority. A surrender is not voluntary if it occurs when the person is taken into custody or during a pursuit or attempt to take the person into custody under circumstances indicating that the surrender is made under threat of force.

~~(B) No person in violation of section 2923.13 of the Revised Code solely by reason of his being under indictment shall be prosecuted for such violation if, within ten days after service of the indictment, he voluntarily surrenders the firearms and dangerous ordnance in his possession to any law enforcement authority pursuant to division (A) of this section, for safekeeping pending disposition of the indictment or of an application for relief under section 2923.14 of the Revised Code.~~

~~(C) Evidence obtained from or by reason of an application or proceeding under section 2923.14 of the Revised Code for relief from disability, shall not be used in a prosecution of the applicant for any violation of section 2923.13 of the Revised Code.~~

~~(D) Evidence obtained from or by reason of an application under section 2923.18 of the Revised Code for a permit to possess dangerous ordnance, shall not be used in a prosecution of the applicant for any violation of section 2923.13 or 2923.17 of the Revised Code.~~(b) Any firearm or dangerous ordnance, declared to be illegal under the provisions of Section 627.06 or RC Section 2923.20 may be disposed of by presenting the firearm or dangerous ordnance by the person owning or possessing it, at any district police station in the City of Cleveland, at the Central Police Station or the Detective Bureau of the Division of Police.

(c) No person disposing of a firearm or dangerous ordnance in the manner and at the places herein designated, shall be required to make any written or oral statement or report concerning the firearm or dangerous ordnance or the circumstances surrounding its acquisition, possession or present or past ownership. Receipt can be made available upon request.

~~2923.122 Illegal Section 627.20~~ Conveyance or Possession of ~~deadly weapon or dangerous ordnance or of an~~ Object Indistinguishable from a Firearm in ~~school safety zone.~~

~~(A) No person shall knowingly convey, or attempt to convey, a deadly weapon or dangerous ordnance into a School Safety Zone.~~

~~(B) No person shall knowingly possess (a deadly weapon or dangerous ordnance in a school safety zone.~~

~~(C)~~ No person shall knowingly possess an object in a school safety zone if both of the following apply:

(1) The object is indistinguishable from a firearm, whether or not the object is capable of being fired.

(2) The person indicates that the person possesses the object and that it is a firearm, or the person knowingly displays or brandishes the object and indicates that it is a firearm.

~~(D)~~

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

~~(a) An officer, agent, or employee of this or any other state or the United States, or a law enforcement officer, who is authorized to carry deadly weapons or dangerous ordnance and is acting within the scope of the officer's, agent's, or employee's duties, a security officer employed by a board of education or governing body of a school during the time that the security officer is on duty pursuant to that contract of employment, or any other person who has written authorization from the board of education or governing body of a school to convey deadly weapons or dangerous ordnance into a school safety zone or to possess a deadly weapon or dangerous ordnance in a school safety zone and who conveys or possesses the deadly weapon or dangerous ordnance in accordance with that authorization;~~

~~(b) Any person who is employed in this state, who is authorized to carry deadly weapons or dangerous ordnance, 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 (D)(1)(b) of this section does not apply to the person.~~

~~(2)~~ Division ~~(C)~~a of this section does not apply to premises upon which home schooling is conducted. Division ~~(C)~~a of this section also does not apply to a school administrator, teacher, or employee who possesses an object that is indistinguishable from a firearm for legitimate school purposes during the course of employment, a student who uses an object that is indistinguishable from a firearm under the direction of a school administrator, teacher, or employee, or any other person who with the express prior approval of a school administrator possesses an object that is indistinguishable from a firearm for a legitimate purpose, including the use of the object in a

ceremonial activity, a play, reenactment, or other dramatic presentation, or a ROTC activity or another similar use of the object.

~~(3) This section does not apply to a person who conveys or attempts to convey a handgun into, or possesses a handgun in, a school safety zone if, at the time of that conveyance, attempted conveyance, or possession of the handgun, all of the following apply:~~

~~(a) The person does not enter into a school building or onto school premises and is not at a school activity.~~

~~(b) The person is carrying a valid concealed handgun license.~~

~~(c) The person is in the school safety zone in accordance with 18 U.S.C. 922(q)(2)(B).~~

~~(d) The person is not knowingly in a place described in division (B)(1) or (B)(3) to (10) of section 2923.126 of the Revised Code.~~

~~(4) This section does not apply to a person who conveys or attempts to convey a handgun into, or possesses a handgun in, a school safety zone if at the time of that conveyance, attempted conveyance, or possession of the handgun all of the following apply:~~

~~(a) The person is carrying a valid concealed handgun license.~~

~~(b) The person is the driver or passenger in a motor vehicle and is in the school safety zone while immediately in the process of picking up or dropping off a child.~~

~~(c) The person is not in violation of section 2923.16 of the Revised Code.~~

~~(E)~~

~~(1) Whoever violates division (a) or (B) of this section is guilty of illegal conveyance or possession of a deadly weapon or dangerous ordnance in a school safety zone. Except as otherwise provided in this division, illegal conveyance or possession of a deadly weapon or dangerous ordnance in a school safety zone is a felony of the fifth degree. If the offender previously has been convicted of a violation of this section, illegal conveyance or possession of a deadly weapon or dangerous ordnance in a school safety zone is a felony of the fourth degree.~~

~~(2) Whoever violates division (C) of this section is guilty of illegal possession of an object indistinguishable from a firearm in a school safety zone. Except as otherwise provided in this division, illegal possession of an object indistinguishable from a firearm in a school safety zone is a misdemeanor of the first degree. If the offender previously has been convicted of a violation of this section, illegal possession of an object indistinguishable from a firearm in a school safety zone is a felony of the fifth degree.~~

~~(F)~~

~~(1) In addition to any other penalty imposed upon a person who is convicted of or pleads guilty to a violation of this section and subject to division (F)(2) of this section, if the offender has not attained nineteen years of age, regardless of whether the offender is attending or is enrolled in a school operated by a board of education or for which the state board of education prescribes minimum standards under section 3301.07 of the Revised Code, the court shall impose upon the offender a class four suspension of the offender's probationary driver's license, restricted license, driver's license, commercial driver's license, temporary instruction permit, or probationary commercial driver's license that then is in effect from the range specified in division (A)(4) of section 4510.02 of the Revised Code and shall deny the offender the issuance of any permit or license of that type during the period of the suspension.~~

~~If the offender is not a resident of this state, the court shall impose a class four suspension of the nonresident operating privilege of the offender from the range specified in division (A)(4) of section 4510.02 of the Revised Code.~~

~~(2) If the offender shows good cause why the court should not suspend one of the types of licenses, permits, or privileges specified in division (F)(1) of this section or deny the issuance of one of the temporary instruction permits specified in that division, the court in its discretion may choose not to impose the suspension, revocation, or denial required in that division.~~

~~(G)(d) As used in this section, ":~~

(1) "Object that is indistinguishable from a firearm" means an object made, constructed, or altered so that, to a reasonable person without specialized training in firearms, the object appears to be a firearm.

(2) "School safety zone" consists of a school, school building, school premises, school activity, and school bus.

(3) "School", "school building", and "school premises" have the same meaning as in Section 2925.01 of the Revised Code.

(4) "School activity" means any activity held under the auspices of a board of education of a city, local, exempted village, joint vocational, or cooperative education school district; a governing authority of a community school established under Chapter 3314 of the Revised Code; a governing board of an educational service center, or the governing body of a school for which the state board of education prescribed minimum standards under Section 3301.07 of the Revised Code.

(5) "School bus" has the same meaning as in Section 4511.01 of the Revised Code.

(RC Section 2923.122)