



Legislation Details (With Text)

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Title: To amend Chapter 2323 of the Columbus City Code by enacting new sections 2323.11, 2323.13, 2323.15, 2323.163, 2323.171, 2323.201, 2323.211, 2323.23 and 2323.24, and amending sections 2323.19, 2323.20, and 2323.30 to reenact the City's weapons code and create two new weapons violations for having weapons while under disability and unlawful possession of firearm accessories.

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Indexes:

Code sections:

Attachments:

Date	Ver.	Action By	Action	Result
5/16/2018	1	CITY CLERK	Attest	
5/15/2018	1	MAYOR	Signed	
5/14/2018	1	COUNCIL PRESIDENT	Signed	
5/14/2018	1	Columbus City Council	Approved	Pass
5/7/2018	1	Columbus City Council	Read for the First Time	

The purpose of this ordinance is to reenact sections of the Columbus City Codes regarding weapons that were repealed after the Ohio Supreme Court ruled constitutional a statewide law that prevents municipalities from enacting laws regulating the possession, ownership, purchase, other acquisition, transport, storage, carrying, sale, or other transfer of firearms, their components, and their ammunition. The ordinance conforms the reenacted city weapons code to state law and adds provisions for forfeiture of weapons used in the commission of specified offenses.

The ordinance also enacts new section 2323.13 creating a weapons under disability provision that penalizes possession of a weapon if the offender has been convicted of a violent felony offense not currently covered by state code, violations of protection orders, and misdemeanor domestic violence.

Finally, in light of recent events in Las Vegas, Nevada and Parkland, Florida, the ordinance enacts a provision to ban firearm accessories including bump stocks, bump-fire stocks, slide fires, accelerators and trigger cranks that accelerate the rate of fire of a firearm.

To amend Chapter 2323 of the Columbus City Code by enacting new sections 2323.11, 2323.13, 2323.15, 2323.163, 2323.171, 2323.201, 2323.211, 2323.23 and 2323.24, and amending sections 2323.19, 2323.20, and 2323.30 to reenact the City's weapons code and create two new weapons violations for having weapons while under disability and unlawful possession of firearm accessories.

WHEREAS, statewide law in Ohio upheld by the Ohio Supreme Court prevents the City of Columbus from passing common sense gun control measures to reduce gun violence; and

WHEREAS, the City is permitted to enact local ordinances that do not conflict with state or federal law regarding possession, ownership, purchase, acquisition, transport, storage, carrying, sale or other transfer of firearms, their components, and ammunition; and

WHEREAS, requiring violent criminals to forfeit weapons used in the commission of crimes enhances community safety; and

WHEREAS, the prohibition of firearm accessories that effectively convert semiautomatic rifles to nearly full automatic fire eliminates an imminent threat to public safety; now, therefore,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS:

SECTION 1. That new sections 2323.11, 2323.13, 2323.15, 2323.163, 2323.171, 2323.201, 2323.211, 2323.23, and 2323.24 of the Columbus City Codes are hereby enacted, reading as follows:

2323.11 - Definitions.

As used in sections 2323.11 to 2323.54 of the Columbus City 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.

(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) “Automatic firearm” means any firearm designed or specially adapted to fire a succession of cartridges with a single function of the trigger.

(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, 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.

(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) “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, pectretol, 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 suppressor;

(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.

2323.13 - Having weapons while under disability.

(A) Unless relieved from disability under operation of law or legal process, no person shall knowingly acquire, have, carry, or use any firearm or dangerous ordnance, if any of the following apply:

(1) The person is under indictment for, has been convicted of, or has been adjudicated a delinquent child for the commission of an offense that, if committed by an adult, would have been any of the following felonies that are punishable by imprisonment for a term exceeding one year:

(a) Homicide and Assault Offenses in violation of §§2903.041, 2903.06, or 2903.08

(b) Sex Offenses in violation of §§2907.04, 2907.07, 2907.19, 2907.21, 2907.22, 2907.23, 2907.24, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, or 2907.323

(c) Terrorism Offenses in violation of §§2909.04, 2909.22, 2909.23, 2909.26, 2909.27, 2909.28, or 2909.29

(d) Offenses Against the Public Peace in violation of §§2917.33 or 2917.47

(e) Offenses Against Justice and Public Administration in violation of §§2921.02, 2921.05, 2921.11, 2921.12, 2921.13, 2921.31, 2921.321, 2921.33, 2921.331, 2921.35, 2921.36, 2921.38, 2921.41, 2921.42, 2921.51, or 2921.52

(f) Weapons Control Offenses in violation of §§2923.12, 2923.122, 2923.123, 2923.13, 2923.131, 2923.16, 2923.162, 2923.17, 2923.20, 2923.201, 2923.241, 2923.32, or 2923.42

(g) Ethnic Intimidation & Desecration of Places of Worship Offenses in violation of §§2927.11 or 2927.12

(2) The person is subject to a court order that:

(a) Was issued after a hearing of which such person received actual notice, and at which such person had an opportunity to participate;

(b) Restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and

(c)(i) Includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or

(ii) By its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury.

(3) The person has been convicted of a misdemeanor offense of domestic violence.

(B) Whoever violates this section is guilty of misdemeanor having weapons while under disability, a misdemeanor punishable by up to one year in jail with a mandatory minimum jail term of at least one hundred eighty (180) consecutive days during which mandatory jail term the defendant shall not be eligible for work release and up to a \$1500 fine.

(C) Any instrumentality that has been used in a violation of this section shall be seized and is subject to forfeiture pursuant to Chapter 2981 of the Ohio Revised Code.

(D) For the purposes of this section:

(1) “Under operation of law or legal process” shall not itself include mere completion, termination, or expiration of a sentence imposed as a result of a criminal conviction.

(2) “Intimate partner” means, with respect to a person, the spouse of the person, a former spouse of the person, an individual who is a parent of a child of the person, and an individual who cohabitates or has cohabited with the person.

(3) “Misdemeanor crime of domestic violence” shall have the same meaning as used in 18 USC §921(a)

2323.15 - 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.

(C) Any instrumentality that has been used in a violation of this section shall be seized and is subject to forfeiture pursuant to Chapter 2981 of the Ohio Revised Code.

2323.163 - Procedure for storing and returning surrendered firearms.

(A) If a law enforcement officer stops a person for any law enforcement purpose and the person voluntarily or pursuant to a request or demand of the officer surrenders a firearm to the officer, if a law enforcement officer stops a motor vehicle for any purpose and a person in the motor vehicle voluntarily or pursuant to a request or demand of the officer surrenders a firearm to the officer, or if a law enforcement officer otherwise seizes a firearm from a person, all of the following apply:

(1) If the law enforcement officer does not return the firearm to the person at the termination of the stop or otherwise promptly return the firearm to the person after the seizure of the firearm, the officer or other personnel at the officer’s law enforcement agency shall maintain the integrity and identity of the firearm in such a manner so that if the firearm subsequently is to be returned to the person it can be identified and returned to the person in the same condition it was in when it was seized.

(2) If the law enforcement officer does not return the firearm to the person at the termination of the stop or otherwise promptly return the firearm to the person after the seizure of the firearm, if a court finds that a law enforcement officer failed to return the firearm to the person after the person has demanded the return of the firearm from the officer, and if the court orders a law enforcement officer to return the firearm to the person, in addition to any other relief ordered, the court also shall award reasonable costs and attorney’s fees to the person who sought the order to return the firearm.

(B) Absent a court order to the contrary, if a law enforcement officer responding to a report of an alleged incident of

domestic violence or an alleged incident of violation of a protection order , in accordance with ORC 2935.03(B)(3)(h), seizes a deadly weapon(s) as contraband pursuant to Chapter 2981.12 or when a deadly weapon(s) is ordered turned over to the Division of Police pursuant to the terms of an Order of Protection issued pursuant to the Ohio Revised Code, said deadly weapon(s) shall be deposited and kept in protective custody in the Columbus Division of Police Property Room until expiration of the Order of Protection, at which time the deadly weapon(s) may be disposed of as unclaimed property pursuant to ORC 2981.12 unless the Respondent to the order has timely filed a motion for return of the deadly weapons.

2323.171 - Unlawful possession of firearm accessory.

(A) No person shall knowingly acquire, have, carry, or use an illegal rate-of-fire acceleration firearm accessory.

(B) Whoever violates this section is guilty of unlawful possession of a firearm accessory, a misdemeanor punishable by up to one year in jail with a mandatory minimum jail term of at least one hundred eighty (180) consecutive days during which mandatory jail term the defendant shall not be eligible for work release and up to a \$1500 fine.

(C) For the purposes of this section:

(1) "Illegal rate-of-fire acceleration firearm accessory" means any trigger crank, a bump-fire device, or any part, combination of parts, component, device, attachment, or accessory, that is designed or functions to accelerate the rate of fire of a semi-automatic firearm but not convert the semi-automatic firearm into an automatic firearm. These include, but are not limited to, firearm accessories described or marketed as bump stocks, bump-fire stocks, slide fires, and accelerators.

2323.201 - Defacing identification marks of 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, a misdemeanor of the first degree.

(2) Whoever violates division (A)(2) of this section is guilty of possessing a defaced firearm, a misdemeanor of the first 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.

(D) This section shall not apply to circumstances which, by law, constitute felony violations to be prosecuted under either ORC section 2923.201 or other applicable state law.

(E) Any instrumentality that has been used in a violation of this section shall be seized and subject to forfeiture pursuant to Chapter 2981 of the Ohio Revised Code.

2323.211 - Underage purchase of firearm or handgun.

(A) [Reserved]

(B) 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) Whoever violates division (B) of this section is guilty of underage purchase of a handgun, a misdemeanor of the second degree.

(D) Any instrumentality that has been used in a violation of this section shall be seized and is subject to forfeiture pursuant to Chapter 2981 of the Ohio Revised Code.

2323.23 - Immunity from prosecution.

(A) No person who acquires, possesses, or carries a firearm or dangerous ordnance in violation of section 2323.13 shall be prosecuted for such violation, if the person reports the possession of firearms or dangerous ordnance to the Columbus Division of Police, describes the firearms or dangerous ordnances in the person's possession and where they may be found, and voluntarily surrenders the firearms or dangerous ordnances to the Division of Police. 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 2323.13 solely by reason of the person's being under indictment shall be prosecuted for such violation if, within ten days after service of the indictment, the person voluntarily surrenders the firearms and dangerous ordnances in the person's possession to any law enforcement authority pursuant to section 2923.23(A) of the Revised Code, 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 2323.13.

(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 2323.13.

2323.24 - Possessing criminal tools.

(A) No person shall possess or have under the person's control any substance, device, instrument, or article, with purpose to use it criminally.

(B) Each of the following constitutes prima-facie evidence of criminal purpose:

(1) Possession or control of any dangerous ordnance, or the materials or parts for making dangerous ordnance, in the absence of circumstances indicating the dangerous ordnance, materials, or parts are intended for legitimate use;

(2) Possession or control of any substance, device, instrument, or article designed or specially adapted for criminal use;

(3) Possession or control of any substance, device, instrument, or article commonly used for criminal purposes, under circumstances indicating the item is intended for criminal use.

(C) Whoever violates this section is guilty of possessing criminal tools, a misdemeanor of the first degree.

(D) This section shall not apply if the circumstances indicate that the substance, device, instrument, or article involved in the offense was intended for use in the commission of a felony, violation of which would be prosecuted under state law.

(E) Any instrumentality that has been used in a violation of this section shall be seized and is subject to forfeiture pursuant to Chapter 2981 of the Ohio Revised Code.

SECTION 2, That sections 2323.19, 2323.20, and 2323.30 of the Columbus City Codes are hereby amended as follows:

2323.19 - 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.

(C) As used in this section, dangerous ordnance has the same meaning as used in Section 2534.01 of the Columbus City Code.

(D) Any instrumentality that has been used in a violation of this section shall be seized and subject to forfeiture pursuant to Chapter 2981 of the Ohio Revised Code.

2323.20 - Unlawful transaction in weapons; failure to report loss.

(A) No person shall manufacture, possess for sale, sell, or furnish to any 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.

(B) No person shall knowingly fail to report to law enforcement authorities forthwith the loss or theft of any firearm or dangerous ordnance in ~~such~~ the person's possession or under ~~his~~ the person's control.

(C) Whoever violates ~~subsection~~ division (A) of this section is guilty of unlawful transactions in weapons, a misdemeanor of the second degree. Whoever violates ~~subsection~~ division (B) of this section is guilty of failure to report loss of a dangerous ordnance, a misdemeanor of the fourth degree.

(D) Any instrumentality that has been used in a violation of this section shall be seized and subject to forfeiture pursuant to Chapter 2981 of the Ohio Revised Code.

2323.30 - Discharging weapons.

(A) No person shall discharge or cause to be discharged any firearm, airgun or other instrument used to explode any cartridge or thing filled with any explosive substance or material. ~~For purposes of this section, firearm has the same meaning as used in Section 2923.11(B) of the Ohio Revised Code.~~

(B) This section shall not apply to:

(1) Devices in which paper caps containing twenty-five hundredths (0.25) grains or less of explosive compound are used, (providing they are so constructed that the hand cannot come in contact with the cap when in place for the explosion), and toy pistol paper caps which contain less than twenty hundredths (0.20) grains of explosive mixture;

(2) A law enforcement officer in the lawful performance of the officer's duties;

(3) Discharge of a weapon when acting in self-defense or defense of another, including as provided in Section 2901.05(B) of the Ohio Revised Code;

(4) Situations in which the firearm was discharged or was on or about the person or under the control of a person in the commission of a felony for which the Revised Code requires a term of imprisonment ~~pursuant to Section 2929.14(D) of the Revised Code;~~

(5) Discharge of a firearm upon or over a public road or highway when the violation created a substantial risk of physical harm, caused harm, or caused serious physical harm to any person; or caused serious physical harm to property violation of which is to be prosecuted under relevant state law.

(C) [Reserved.]

(D) Whoever violates this section is guilty of discharging weapons, a misdemeanor of the ~~third~~ first degree.

(E) Any instrumentality that has been used in a violation of this section shall be seized and is subject to forfeiture pursuant to Chapter 2981 of the Ohio Revised Code.

~~(E)~~ (F) Strict liability is intended to be imposed for violation of this section.

SECTION 3. That existing sections 2323.19, 2323.20, and 2323.30 of the Columbus City Codes are hereby repealed.

SECTION 4. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.