



FRATERNAL ORDER OF POLICE OF OHIO, INC.

222 East Town Street, Columbus, Ohio 43215-4611

(614) 224-5700 FAX (614) 224-5775

www.fopohio.org



President

NICK DIMARCO
Garfield Heights P.D.

Vice-President

DAN MITCHELL
Cincinnati P.D.

Secretary

MIKE TAYLOR
Columbus P.D.

Treasurer

MARK DRUM
Delaware P.D.

2nd Vice-President

JAY MCDONALD
Marion P.D.

Sergeant at Arms

ROBERT EVERETT
Dover P.D.

Immediate Past President

VIRGIL MCDANIEL
Dayton P.D.

District Trustees

First
RICK GROCHOWSKI
Akron P.D.

Second

GLENN KOUNTZ
Mahoning County S.O.

Third

MIKE BAMMANN
Mansfield P.D.

Fourth

WES ELSON
Muskingum County S.O.

Fifth

ED BUNS
Hamilton P.D.

Sixth

GENE FODOR
Toledo P.D.

Seventh

TOM TUBE
Cleveland P.D.

Eighth

BRAD CAIN
Orange Village P.D.

Ninth

JOHN WAINSCOTT
Cincinnati P.D.

Tenth

JOHN N. WILLIAMS
O.D.M.H.

Eleventh

SCOTT TIPTON
Franklin County S.O.

National Trustee

CHET DELONG
Columbus P.D.

Chief Counsel

PAUL COX

THE OHIO FRATERNAL ORDER OF POLICE H.B. 12: OFF DUTY OFFICERS & CONCEALED CARRY

R. Michael Taylor
State Secretary
Legislative Chairman

The Ohio F.O.P. legislative committee was very much involved with H.B. 12 as it went through the legislative process. H.B. 12 allows Ohioans to obtain a permit to carry a concealed weapon. Questions have been asked about how the passage of H.B. 12 affects the carrying of a concealed weapon by an off-duty law enforcement officer. The Ohio Association of Chiefs of Police has released an opinion based on their understanding of the intent of the legislation in regards to the ability of law enforcement officers to carry off duty. The F.O.P. of Ohio strongly disagrees with the O.A.C.P. interpretation.

The O.A.C.P. has stated that in enacting Section 2923.126(D), "we believe the legislature recognized the distinction between carrying on duty and off duty. Section 2923.126(D) (new law as passed by HB 12) states "*A peace officer has the same right to carry a concealed handgun in this state as a person who was issued a license to carry a concealed handgun under section 2923.125 of the revised code, For purposes of reciprocity with other states, a peace officer shall be considered to be a licensee in this state*". The O.A.C.P. interprets this to only mean that a peace officer does not have to apply for a license as he/she is in effect given one by operation of law. The O.A.C.P. has taken the position that when off duty, a peace officer is no more than a licensee and subject to the same restrictions. The "peace officer has the same right" language was put into H.B.12 at the request of the F.O.P. and it is for that reason that we speak to the intent of that language. It in no way was requested with intent to in any way restrict off duty carry of peace officers. The intent was simply to allow off duty peace officers the same privileges in the area of reciprocity with other states and we believe the language is quite clear on this.

Page 2.

Section 2923.12 states that the prohibition against carrying a concealed weapon **DOESN'T** apply to peace officers authorized to carry a concealed weapon and acting within the scope of their duties (this provision is unchanged by H.B. 12). This language is clear and the practice of off duty carry is no different now than before the passage of H.B. 12. The F.O.P believes that the O.A.C.P. has incorrectly interpreted “within the scope of their duties” and “on duty” (the eight hours paid duty), as meaning the same thing and therefore have drawn the conclusion that if you are “off duty” you are not within the scope of your duties. Again the F.O.P. strongly disagrees with that conclusion, and points to Section 4123.04. Ohio law provides that worker’s compensation benefits are available to peace officers when injured while taking police action outside their jurisdiction on or off duty. The legislation that passed in 1998 that created this section was drafted at the request of the F.O.P. and the intent is once again clear. Peace officers can be within the scopes of their duties, off duty and outside their jurisdiction.

The O.A.C.P. also has said that their position appears to be the position of the Ohio Highway Patrol, based on O.S.P. work rules. The F.O.P. has contacted O.S.P. on this issue. O.S.P. told us that their work rule was in place for their troopers and not an interpretation as to how H.B. 12 affects off duty carry by peace officers. The F.O.P. has been told that O.S.P. plans to treat off duty officers carrying a concealed handgun in the same manner as prior to H.B. 12 becoming law.

In closing the Fraternal Order of Police does not agree that peace officers who are authorized to carry a concealed handgun off duty are in any way considered to be “licensees” nor are they required to abide by the restrictions placed on CCW permit holders in H.B. 12.