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MEMORANDUM

TO: Ohio Manufacturers' Association
FROM: Bricker & Eckler LLP
DATE: July 20, 2017
RE: H.B. 233 – Relaxing the Criminal Penalties for Concealed Handgun Licensees

I. H.B. 233 Overview.

Representative John Becker (R-Union Township) is H.B. 233's sponsor. The bill was introduced in the House of Representatives ("House") on May 18, 2017 in the midst of the FY18-19 Biennial Budget ("H.B. 49") process. The bill was referred to the House Federalism & Interstate Relations Committee. The OMA submitted written opponent testimony to the Committee on July 5, 2017. The House passed H.B. 233 on July 6, 2017 (64-31), largely along party lines, the same day the Chamber voted to override 11 of Governor Kasich's H.B. 49 vetoes.

H.B. 233 is part of a series of language and bills that several members of the General Assembly have introduced since the 131st General Assembly Lane Duck Session to relax gun restrictions in Ohio. The OMA opposed the inclusion of language in H.B. 49 that created a private cause of action for against a property owner who prohibits or effectively prohibits the "injured" individual's ability to have a concealed handgun in a motor vehicle where that motor vehicle would otherwise be permitted to be. Although this language was amended, the cause of action remains a part of H.B. 49. H.B. 233 is the latest attempt to further strip away the ability of property owners to control their own property.

II. H.B. 233 Further Degrades Private and Public Property Owners Rights.

H.B. 233 allows a concealed handgun license holder or qualified military member to avoid charges for entering a gun-free zone with a firearm. Under current law, entering a gun-free zone with a firearm is a fifth-degree felony subject to up to 12 months in prison and a \$2,500 fine. However, this bill substantially relaxes penalties. Individuals discovered carrying a weapon in such a location may only be charged with a crime, if he or she refuses to leave or knowingly returns within 30 days with a deadly weapon.

The bill degrades property owners' rights as it allows a concealed handgun license holder to knowingly enter a gun-free zone without a criminal penalty. H.B. 233 does nothing to deter an individual from entering a gun-free

zone with a concealed handgun. To the contrary, the bill insulates such individuals from receiving any penalty for knowingly ignoring a property owner's right to keep guns off his or her premises.

Even if a property owner, including a business owner or manufacturer, posted "no guns allowed" signs, a concealed handgun licensee could still bring a hidden loaded handgun onto the property and the property owner would have no recourse against the individual.

H.B. 233's scope is extremely broad and affects any private "land or premises". Thus, even if a business entity or manufacturing facility posted a "no guns allowed" sign, a disgruntled employee could still trespass on such private property with a loaded concealed handgun and not face a criminal charge. This bill not only takes private property owners' rights away, but H.B. 233 encourages, rather than deters, an individual to bring a loaded weapon onto private property.

As if taking away private property rights is not bad enough, H.B. 233 also opens business entities and manufacturers up to additional liability and the unnecessary and high cost of defending lawsuits, if an individual on the property was injured by a trespasser with a concealed weapon. This bill is not only bad for the manufacturing and business community, but H.B. 233 is bad for all private property owners in Ohio.