

As Introduced

**130th General Assembly
Regular Session
2013-2014**

H. B. No. 681

Representative Reece

**Cosponsors: Representatives Ashford, Boyce, Boyd, Budish, Carney,
Celebrezze, Hagan, R., Heard, Strahorn, Stinziano, Sykes, Williams, Winburn**

—

A B I L L

To enact sections 2923.51 to 2923.55 of the Revised Code to regulate the commercial sale, modification, and public display of imitation firearms and the disguising of a firearm as an imitation firearm.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 2923.51, 2923.52, 2923.53, 2923.54, and 2923.55 of the Revised Code be enacted to read as follows:

Sec. 2923.51. As used in sections 2923.51 to 2923.55 of the Revised Code:

(A) "BB device" means any instrument that expels a projectile, such as a BB or a pellet, through the force of air pressure, gas pressure, or spring action, including any airsoft gun and any spot marker or paintball gun.

(B)(1) "Imitation firearm" means, subject to division (B)(2) of this section, any BB device, replica of a firearm, or other device that is so substantially similar in coloration and overall appearance to an existing firearm as to lead a reasonable person to perceive that the device is a firearm.

(2) "Imitation firearm" does not include any toy gun unless 19
the toy gun is a BB device. 20

(C) "Public place" means an area open to the public, 21
including any of the following: 22

(1) A street, alley, sidewalk, driveway, or parking lot; 23

(2) A bridge; 24

(3) A plaza or park; 25

(4) A front yard; 26

(5) A motor vehicle, as defined in section 4511.01 of the 27
Revised Code, whether moving or not; 28

(6) A building open to the general public, including one that 29
serves food or drink or that provides entertainment; 30

(7) A doorway or entrance to a building or dwelling; 31

(8) A school operated by a board of education or a community 32
school established under Chapter 3314. of the Revised Code; 33

(9) Any premises owned or leased by a public or private 34
college, university, or other institution of higher education. 35

(D) "Firearm" and "handgun" have the same meanings as in 36
section 2923.11 of the Revised Code. 37

(E) Except as used in division (C)(9) of this section, 38
"school" has the same meaning as in section 2925.01 of the Revised 39
Code. 40

Sec. 2923.52. (A) No person, for commercial purposes, shall 41
knowingly sell an imitation firearm in this state on or after 42
January 1, 2016. 43

(B) Whoever violates division (A) of this section is guilty 44
of commercial sale of an illegal imitation firearm, a misdemeanor 45
of the first degree. 46

(C) Division (A) of this section does not apply to the sale 47
of any of the following: 48

(1) A nonfiring collector's replica that is historically 49
significant and is offered for sale in conjunction with a wall 50
plaque or presentation case; 51

(2) A BB device that is a spot marker gun that expels a 52
projectile that is greater than 10mm caliber; 53

(3) A BB device that expels a projectile, such as a BB or 54
pellet, that is other than 6mm or 8mm caliber; 55

(4) A BB device that is an airsoft gun that expels a 56
projectile, such as a BB or pellet, that is 6mm or 8mm caliber, if 57
the device contains the blaze orange ring on the barrel required 58
by federal law, has a trigger guard that has fluorescent 59
coloration over the entire guard, and meets either of the 60
following: 61

(a) If the airsoft gun is configured as a handgun, there is a 62
two centimeter wide adhesive band around the circumference of the 63
protruding pistol grip that has fluorescent coloration and the 64
adhesive band is applied in a manner not intended for removal and 65
is in place on the airsoft gun prior to sale to a customer; 66

(b) If the airsoft gun is configured as a rifle or long gun, 67
there is a two centimeter wide adhesive band with fluorescent 68
coloring, applied in a manner and in place as described in 69
division (C)(4)(a) of this section, around the circumference of 70
any two or more of the following: 71

(i) The protruding pistol grip; 72

(ii) The buttstock; 73

(iii) A protruding ammunition magazine or clip. 74

(5) A device the entire exterior surface of which is white, 75
bright red, bright orange, bright yellow, bright green, bright 76

blue, bright pink, or bright purple, either singly or as the 77
predominant color in combination with other colors in any pattern; 78

(6) A device that is entirely constructed of transparent or 79
translucent materials that permits unmistakable observation of the 80
device's complete contents. 81

(D) Division (A) of this section does not apply to a sale of 82
an imitation firearm for any of the following purposes: 83

(1) Solely for export in interstate or foreign commerce; 84

(2) Solely for lawful use in any theatrical production, 85
including any motion picture, video, television, or stage 86
production; 87

(3) For use in a certified or regulated sporting event or 88
competition; 89

(4) For use in any military or civil defense activity or 90
ceremonial activity; 91

(5) For any public display authorized by a school. 92

Sec. 2923.53. (A) No person, on or after January 1, 2016, 93
shall knowingly change, alter, remove, or obliterate any 94
coloration, markings, or bands that are required by any applicable 95
law or regulation of this state or the United States for any 96
imitation firearm in a way that makes the imitation firearm or 97
device look more like a firearm. 98

(B) No person, on or after January 1, 2016, shall knowingly 99
add to any firearm any coloration, markings, or bands that are 100
required by any law or regulation of this state or the United 101
States for any imitation firearm in a way that makes the firearm 102
look more like an imitation firearm. 103

(C)(1) Whoever violates division (A) of this section is 104
guilty of alteration of an imitation firearm, a misdemeanor of the 105

<u>first degree.</u>	106
<u>(2) Whoever violates division (B) of this section is guilty of disguising a firearm as an imitation firearm, a misdemeanor of the first degree.</u>	107 108 109
<u>(D) Division (A) of this section does not apply to any of the following:</u>	110 111
<u>(1) A manufacturer, importer, or distributor of imitation firearms;</u>	112 113
<u>(2) A lawful use in any theatrical production, including any motion picture, video, television, or stage production.</u>	114 115
<u>Sec. 2923.54. (A) No person shall knowingly openly display or expose any imitation firearm in a public place on or after January 1, 2016.</u>	116 117 118
<u>(B) Whoever violates division (A) of this section is guilty of illegal public display of an imitation firearm, a misdemeanor of the first degree.</u>	119 120 121
<u>(C) Division (A) of this section does not apply in any of the following circumstances:</u>	122 123
<u>(1) The imitation firearm is packaged or concealed so that it is not subject to public viewing.</u>	124 125
<u>(2) The imitation firearm is displayed or exposed in the course of commerce, including a commercial film or video production, or for service, repair, or restoration of the imitation firearm.</u>	126 127 128 129
<u>(3) The imitation firearm is used in a theatrical production, including any motion picture, video, television, or stage production.</u>	130 131 132
<u>(4) The imitation firearm is used in conjunction with a certified or regulated sporting event or competition.</u>	133 134

<u>(5) The imitation firearm is used in conjunction with lawful hunting or a lawful pest control activity.</u>	135 136
<u>(6) The imitation firearm is used or possessed at a certified or regulated public or private shooting range.</u>	137 138
<u>(7) The imitation firearm is used at a fair, exhibition, exposition, or other similar activity for which a permit has been obtained from a local or state government.</u>	139 140 141
<u>(8) The imitation firearm is used in a military, civil defense, or civic activity, including a flag ceremony, color guard, parade, award presentation, historical reenactment, or memorial.</u>	142 143 144 145
<u>(9) The imitation firearm is used for a public display authorized by a school or a display that is part of a museum collection.</u>	146 147 148
<u>(10) The imitation firearm is used in a parade, ceremony, or other similar activity for which a permit has been obtained from a local or state government.</u>	149 150 151
<u>(11) The imitation firearm is displayed on a wall plaque or in a presentation case.</u>	152 153
<u>(12) The imitation firearm is being used in an area where the discharge of a firearm is lawful.</u>	154 155
<u>(13)(a) The entire exterior surface of the imitation firearm is white, bright red, bright orange, bright yellow, bright green, bright blue, bright pink, or bright purple, either singly or as the predominant color in combination with other colors in any pattern, or the entire device is constructed of transparent or translucent material that permits unmistakable observation of the device's complete contents.</u>	156 157 158 159 160 161 162
<u>(b) To satisfy the requirement of division (C)(13)(a) of this section, the entire surface must be colored or transparent or</u>	163 164

translucent, and merely having an orange tip as provided in 165
federal law and regulations does not satisfy that requirement. 166

Sec. 2923.55. (A) Any imitation firearm manufactured after 167
July 1, 2015, shall be accompanied, at the time of offer for 168
commercial sale in this state, by a conspicuous advisory in 169
writing as part of the packaging of the imitation firearm to the 170
effect that all of the following apply: 171

(1) The product may be mistaken for a firearm by law 172
enforcement officers or others. 173

(2) Altering the coloration or markings required by state or 174
federal law or regulations so as to make the product look more 175
like a firearm is dangerous and may be a crime. 176

(3) Brandishing or displaying the product in public may cause 177
confusion and may be a crime. 178

(B) To comply with division (A) of this section, the 179
conspicuous advisory may be, but is not required to be, affixed to 180
the imitation firearm. 181

(C) No manufacturer, importer, or distributor shall knowingly 182
fail to comply with division (A) of this section. 183

(D) A manufacturer, importer, or distributor that violates 184
division (C) of this section is guilty of failure to provide 185
imitation firearm warnings, a misdemeanor, and shall be fined as 186
follows: 187

(1) Except as otherwise provided in division (D)(2) or (3) of 188
this section, the offender shall be fined not more than one 189
thousand dollars. 190

(2) If the offender once previously has been convicted of or 191
pleaded guilty to a violation of division (C) of this section, the 192
offender shall be fined not more than five thousand dollars. 193

<u>(3) If the offender two or more times previously has been</u>	194
<u>convicted of or pleaded guilty to a violation of division (C) of</u>	195
<u>this section, the offender shall be fined not more than ten</u>	196
<u>thousand dollars.</u>	197