



# Ohio Legislative Service Commission

## Bill Analysis

Bethany Boyd

### H.B. 119

130th General Assembly  
(As Introduced)

Rep. Heard

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## BILL SUMMARY

- Requires a person who is not a federally licensed firearms dealer (unlicensed transferor) to obtain a criminal records check from a federally licensed firearms dealer before transferring a firearm to a person who is not a federally licensed firearms dealer (unlicensed transferee), subject to certain exceptions.
- Authorizes the federally licensed firearms dealer to charge a fee not exceeding \$10 for each criminal records check conducted for an unlicensed transferor.
- Allows, under certain circumstances, an unlicensed transferor to transfer a firearm to an unlicensed transferee, and an unlicensed transferee to receive a firearm from an unlicensed transferor, without a criminal records check.
- Requires a federally licensed firearms dealer who obtains a criminal records check on a prospective unlicensed transferee under the circumstances described above to record certain information in a book and make it available for inspection by any law enforcement officer.
- Requires a federally licensed firearms dealer who obtains the criminal records check to notify the chief law enforcement officers of the municipal corporations or counties in which a prospective unlicensed transferor and transferee reside of the transferee's identity if, based on the check, the dealer believes that the receipt or possession of a firearm by the transferee would violate federal, state, or local law.

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## CONTENT AND OPERATION

### Criminal records check before transferring firearm to unlicensed transferee

The bill requires criminal records checks before a firearm is transferred by a person who is not a federally licensed firearms dealer to any person who is not a federally licensed firearms dealer, including transfers that occur at gun shows or between private individuals, subject to certain exceptions. The bill prohibits a person who is not a federally licensed firearms dealer (an "unlicensed transferor") from transferring a firearm to another person who is not a federally licensed firearms dealer (an "unlicensed transferee"), and prohibits the unlicensed transferee from receiving the firearm from the unlicensed transferor, unless the unlicensed transferor first obtains a criminal records check of the prospective unlicensed transferee from a federally licensed firearms dealer, and the criminal records check indicates that the prospective unlicensed transferee is not prohibited from possessing the firearm.<sup>1</sup> But the transfer is permitted without a criminal records check under the exceptions described below.

Whoever violates this prohibition is guilty of an unlawful transfer of a firearm, a first degree misdemeanor.<sup>2</sup> In general, a first degree misdemeanor is punishable by a jail term of not more than 180 days, a fine of not more than \$1,000, or both.<sup>3</sup>

A federally licensed firearms dealer may charge a fee not exceeding \$10 for each criminal records check conducted.<sup>4</sup>

The bill defines a "criminal records check" as a check of a person's criminal records of the type required under federal law<sup>5</sup> by a federally licensed firearms dealer who is a vendor of firearms.<sup>6</sup> The bill defines a "federally licensed firearms dealer" as an importer, manufacturer, or dealer having a license to deal in destructive devices or their

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<sup>1</sup> R.C. 2923.26 (F) and (G) and 2923.27(A) and (B).

<sup>2</sup> R.C. 2923.27(D).

<sup>3</sup> R.C. 2929.24 and 2929.28, neither of which are in the bill.

<sup>4</sup> R.C. 2923.29.

<sup>5</sup> 18 U.S.C. 922.

<sup>6</sup> R.C. 2923.26(A).



ammunition, issued and in effect pursuant to the federal "Gun Control Act of 1968,"<sup>7</sup> and any amendments or additions to that act or reenactments of that act.<sup>8</sup>

### **Exceptions to criminal records check**

An unlicensed transferor may transfer a firearm to an unlicensed transferee, and an unlicensed transferee may receive a firearm from an unlicensed transferor, without a criminal records check, if *any* of the following apply:

(1) The firearm is transferred as a bona fide gift to a spouse, parent, child, sibling, grandparent, or grandchild of the transferor;

(2) The transfer occurs by operation of law or because of the death of a person for whom the transferor is an executor or administrator of an estate or a trustee of a trust created by a will;

(3) The transfer is a temporary transfer of possession but not of title that takes place at a legally operated "shooting range" for use at the shooting range, at a target firearm shooting competition conducted under the auspices of or approved by an Ohio government agency or a nonprofit organization for use in the competition, or for the purpose of legal hunting;

(4) The transferee is a government agency or its authorized representative, and the transfer is made as part of an authorized, voluntary program in which the agency or representative is acquiring weapons from private individuals; or

(5) The transfer is a delivery of a firearm by its owner to a gunsmith for service or repair, the return of the firearm to its owner by the gunsmith, or the delivery of a firearm by a gunsmith to a federally licensed firearms dealer for service or repair and the return of the firearm to the gunsmith.<sup>9</sup>

Under continuing law, "shooting range" means a facility operated for the purpose of shooting with firearms or archery equipment, whether publicly or privately owned and whether or not operated for profit, including commercial bird shooting preserves and wild animal hunting preserves established under Ohio law. "Shooting

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<sup>7</sup> 82 Stat. 1213, 18 U.S.C. 923.

<sup>8</sup> R.C. 2923.26(C); R.C. 5502.63, not in the bill.

<sup>9</sup> R.C. 2923.27(C).



range" does not include a facility owned or operated by a municipal corporation, county, township police district, or joint police district.<sup>10</sup>

## **Requirements for federally licensed firearms dealers**

### **Recordkeeping**

Under the bill, a federally licensed firearms dealer who obtains a criminal records check on a prospective unlicensed transferee under the circumstances discussed above must record the event in a book kept for that purpose. The information recorded in the book must include the name, age, and residential address of the prospective unlicensed transferor and transferee; the make, caliber, and finish of the firearm, together with its number and serial letter, if any; and the date of the proposed transfer. The federally licensed firearms dealer must maintain the record book and make it available at all times for inspection by any "law enforcement officer." Whoever violates these requirements is guilty of failure to maintain a gun show record, a first degree misdemeanor.<sup>11</sup>

Continuing law broadly defines "law enforcement officer" as including numerous types of local, state, and federal officers, for example, police officers, sheriffs, Ohio's organized militia, and the Armed Forces of the United States, to name a few.<sup>12</sup>

### **Notifying law enforcement officers of firearm disability**

If a federally licensed firearms dealer who obtains a criminal records check on a prospective unlicensed transferee under the circumstances discussed above has reason to believe, based on the information received from the criminal records check, that the receipt or possession of a firearm by the prospective unlicensed transferee would violate federal, state, or local law, the dealer must inform the chief law enforcement officers of the municipal corporations or counties in which the prospective unlicensed transferor and transferee reside of the transferee's identity and the basis of the dealer's belief. Notification must be given within 24 hours after receiving the information from the criminal records check. Whoever violates this requirement is guilty of failure to report a firearm disability, a first degree misdemeanor.<sup>13</sup>

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<sup>10</sup> R.C. 2923.26(E); R.C. 1533.83, not in the bill.

<sup>11</sup> R.C. 2923.28(A), (B), and (D)(1).

<sup>12</sup> R.C. 2901.01, not in the bill.

<sup>13</sup> R.C. 2923.28(C) and (D)(2).



## Definitions

The following definitions apply to the bill:

➤ "Firearm" means any deadly weapon capable of expelling or propelling one or more projectiles by the action of an explosive or combustible propellant, and includes an unloaded firearm and any firearm that is inoperable but that can readily be rendered operable. "Firearm" does not include "antique firearms" as defined in federal law, or "curios or relics."<sup>14</sup>

➤ "Curio or relic" means a firearm that is of special interest to collectors because of some quality of the firearm, other than a quality that is associated with firearms intended for sporting use or as offensive or defensive weapons, and to which at least one of the following applies:

(1) It was manufactured at least 50 years before the date of its prospective transfer and is not a replica.

(2) It is certified by the curator of a municipal, state, or federal museum that exhibits firearms to be a curio or relic of museum interest.

(3) It derives a substantial part of its monetary value from the fact that it is novel, rare, or bizarre, or is associated with some historical figure, period, or event, as shown by evidence of present value and by evidence that like firearms are not available except as collector's items, or that the value of like firearms available in ordinary commercial channels is substantially less.<sup>15</sup>

Under federal law, an "antique firearm" is:

(1) Any firearm (including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system) manufactured in or before 1898; or

(2) Any replica of any firearm described in (1) if such replica (a) is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition, or (b) uses rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade; or

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<sup>14</sup> R.C. 2923.26(D); R.C. 2923.11, not in the bill.

<sup>15</sup> R.C. 2923.26(B).



(3) Any muzzle loading rifle, muzzle loading shotgun, or muzzle loading pistol, which is designed to use black powder, or a black powder substitute, and which cannot use fixed ammunition.

The term "antique firearm" does not include any weapon that incorporates a firearm frame or receiver, any firearm that is converted into a muzzle loading weapon, or any muzzle loading weapon that can be readily converted to fire fixed ammunition by replacing the barrel, bolt, breechblock, or any combination thereof.<sup>16</sup>

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## HISTORY

ACTION	DATE
Introduced	04-10-13

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<sup>16</sup> 18 U.S.C.A. 921(a)(16).

