



www.lsc.ohio.gov

OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
and Drafting

Legislative Budget
Office

S.B. 58*
135th General Assembly

Bill Analysis

[Click here for S.B. 58's Fiscal Note](#)

Version: As Reported by House Insurance

Primary Sponsors: Sens. Gavarone and Johnson

Logan Briggs, Attorney

SUMMARY

Firearm and knife liability insurance

- Prohibits any license, permission, restriction, delay, or process, including by ordinance, rule, regulation, resolution, practice, or other action, or any threat of citation, prosecution, or other legal process from requiring an individual to possess firearm liability insurance or pay a fee for the possession of the firearm, parts, components, ammunition, or a knife.
- Preempts, supersedes, and declares null and void any license, permission, restriction, delay, or process that would require the possession of firearm liability insurance or the payment of a fee for the possession of a firearm, parts, components, ammunition, or a knife.
- Defines “firearm liability insurance” as a policy of liability insurance covering losses resulting from the use of a firearm owned by the person covered by the policy.

Second Amendment Financial Privacy Act

- Prohibits government entities from keeping any list of privately owned firearms or owners of firearms.
- Prohibits financial institutions from assigning a firearms code in a way that distinguishes between a firearms retailer and other retailers.
- Prohibits financial institutions from declining a payment card transaction involving a firearms dealer merely because the transaction is assigned a firearms code.

* This analysis was prepared before the report of the House Insurance Committee appeared in the House Journal. Note that the legislative history may be incomplete.

- Empowers the Attorney General to investigate alleged violations of the above prohibitions and to bring a civil action against the perpetrator.
- Names certain provisions of the bill the Second Amendment Financial Privacy Act.

DETAILED ANALYSIS

Requirement of firearm liability insurance or fees prohibited

The bill prohibits any license, permission, restriction, delay, or process, including by any ordinance, rule, regulation, resolution, practice, or other action or any threat of citation, prosecution, or other legal process from requiring an individual to possess firearm liability insurance or pay a fee for the possession of a firearm, parts, components, ammunition, or a knife. Current law similarly prohibits all manner of regulating possession or conduct associated with firearms, their parts, components, ammunition, or knives. Furthermore, the bill “preempts, supersedes, and declares null and void any such further license, permission, restriction, delay, or process” that would require the possession of firearm liability insurance or the payment of such a fee.¹

The bill allows a person, group, or entity who is affected by a requirement to possess firearm liability insurance or pay a fee for the possession of a firearm, parts, components, ammunition, or a knife to bring a civil action against a political subdivision in order to seek damages, declaratory relief, injunctive relief, or a combination of those remedies. Any damages awarded as a result of such an action must be paid by the offending political subdivision, which must also pay for reasonable expenses either (1) if the plaintiff prevails in the civil action or (2) if the ordinance, rule, regulation, resolution, practice, or action or the manner of enforcement being challenged is repealed or rescinded after the civil action is filed but before a final court determination is made.²

Under current law, the prohibition against the regulation of firearms or knives does not apply in areas zoned for residential or agricultural uses. Nor does the prohibition against the regulation of firearms or knives apply to a zoning ordinance that specifies the hours of operation or the geographic areas where the commercial sale of knives, firearms, firearm parts, components, or ammunition may occur, as long as such zoning does not result in a *de facto* prohibition of the commercial sale of such items.

“Firearm liability insurance” is defined in the bill as a policy of liability insurance covering losses resulting from the use of a firearm owned by the person covered by the policy.³

Second Amendment Financial Privacy Act

The bill enacts the Second Amendment Financial Privacy Act (SAFPA), which includes several requirements related to the confidentiality or anonymity of purchases involving firearms

¹ R.C. 9.68(A).

² R.C. 9.68(B).

³ R.C. 9.68(C).

and ammunition. The SAFPA also prohibits certain actions by financial institutions that might differentiate or disfavor firearms merchants or transactions involving firearms and ammunition.

Government registry of privately owned firearms

The bill prohibits government entities from keeping a registry of privately owned firearms. Specifically, it prohibits (1) the state, a political subdivision of the state, or any court, agency, or instrumentality of the foregoing, (2) an employee of the foregoing, or (3) a government official, from keeping a list, record, or registry of privately owned firearms or the owners of said firearms.

The bill allows an exception for firearm records required by law, or those kept during the regular course of a criminal investigation or prosecution.⁴

Financial institutions and firearm retailers

Prohibit firearms codes

The bill also introduces new requirements for financial intuitions concerning payment card transactions (i.e., transactions involving a credit card, charge card, debit card, or any other card that allows an authorized user to purchase goods or services from a merchant) with firearm retailers. First, it prohibits financial institutions from assigning a firearms code to distinguish firearms retailers from other retailers. The bill defines “firearms retailer” as a person or entity that is lawfully engaged in selling or trading firearms and ammunition (including antique firearms and ammunition) from a physical place of business in Ohio.

A firearms code is defined as a merchant category code approved by the International Organization for Standardization, or an equivalent successor organization, and specifically assigned to a firearms retailer. Under the bill, a firearms code is “assigned” if the financial institution’s policy, process, or practice labels, links, or otherwise associates the code with a merchant or payment card transaction in a way that allows the financial institution or a facilitating or processing entity to identify whether the merchant is a firearms retailer or whether the transaction involves the sale of firearms or ammunition.⁵

Prohibit declining firearms transactions

Second, the bill prohibits a financial institution from declining a transaction involving a firearms retailer solely on the assignment of a firearms code. However, financial intuitions may still decline or refuse to process a firearms-related payment for any of the following reasons: if necessary to comply with applicable state or federal law, if requested by the customer, if necessary due to fraud controls, or for the purpose of merchant category exclusions offered by a financial institution for the purpose of expenditure control or corporate card control. Financial intuitions may also continue to take action related to dispute processing, fraud risk, credit

⁴ R.C. 1349.84(H) and 1349.85(A).

⁵ R.C. 1349.84 and 1349.85(B)(1).

management, or other controls in the ordinary course of business, protecting against illegal activities, and restricting the use or availability of a firearms code.⁶

Enforcement

The bill empowers the Attorney General to investigate reasonable allegations of violations of SAFPA. If the Attorney General determines that SAFPA was violated, written notice must be provided to the violator, who then has 30 days to cease the violation. If the violation does not cease within 30 days, the Attorney General must file an action against the violator. If the court finds that the person or entity violated SAFPA and has not ceased the violation, it must enjoin the person from continuing that activity and may award any other relief the court considers appropriate.

If the violator fails to comply within 30 days of receiving the injunction, the Attorney General is required to petition the court to impose a fine of not more than \$1,000 per violation. The court must consider various factors in assessing the fine, including the financial resources of the violator, and the harm or risk of harm to Second Amendment rights resulting from the violation.

The injunction and civil fine described above are the exclusive remedies for SAFPA violations.⁷

HISTORY

Action	Date
Introduced	02-14-23
Reported, S. Veterans & Public Safety	04-25-23
Passed Senate (24-7)	04-26-23
Reported, H. Insurance	--

ANSB0058RH-135/sb

⁶ R.C. 1349.85(B)(2), (C), and (D).

⁷ R.C. 1349.86.