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OHIO LEGISLATIVE SERVICE COMMISSION

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Office

S.B. 58
135th General Assembly

Fiscal Note & Local Impact Statement

[Click here for S.B. 58's Bill Analysis](#)

Version: As Passed by the House

Primary Sponsors: Sens. Johnson and Gavarone

Local Impact Statement Procedure Required: No

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Highlights

- The bill's firearms liability prohibition should have no direct fiscal effect on political subdivisions, as there do not appear to be any political subdivisions currently in violation of the prohibition against firearm liability insurance or fees.
- The bill empowers the Attorney General's Consumer Protection Section to investigate and enforce the Second Amendment Financial Privacy Act. If violations are successfully prosecuted, civil penalties would likely be deposited into the Consumer Protection Enforcement Fund (Fund 6310) which may offset related costs for the Attorney General. The timing and magnitude of this revenue is expected to be infrequent and relatively small.
- The state and political subdivisions generally are expected to comply with the Second Amendment Privacy Act, and, as a result, would not often face the bill's civil penalty of up to \$1,000 per violation.

Detailed Analysis

Firearms liability

The bill prohibits a political subdivision 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, and permits a person, group, or entity who is adversely affected by such a requirement to bring a civil action against a political subdivision.

Prohibition

LBO is unaware of any political subdivision in Ohio that currently requires firearms liability insurance or fees. This suggests that the bill's prohibition should have no direct fiscal effect on

political subdivisions, as no regulatory or enforcement costs are currently being incurred nor fees collected. Nationally, only two jurisdictions are known to have enacted such requirements (as of April 2023): San Jose and New Jersey.

San Jose

Available evidence suggests that, nationally, the city of San Jose, California was the first and only local government to require firearm liability insurance and an annual gun fee. These requirements, passed in January 2022, provide exemptions for peace officers, concealed weapon licensees, and financial hardship. Challenges to both requirements are being actively litigated in the U.S. District Court for the Northern District of California.

The annual fee, tentatively set at \$25, is expected to generate an estimated \$1.3 million annually.¹ Based on the 2021 U.S. Census Bureau estimate, San Jose has a population of 1,013,240. The city estimates 15% of households (between 50,000 and 55,000 of about 325,000 households) own guns.²

New Jersey

In December 2022, New Jersey became the first state in the nation to require all concealed carry permit holders to maintain and provide proof of liability insurance with coverage for at least \$300,000 on account of injury, death, or damage to property arising out of ownership, maintenance, operation, or use of a firearm.³ The state's new gun law was subsequently challenged, with a federal judge issuing a pair of orders blocking parts of the law from being enforced.⁴ This challenge is being actively litigated in the U.S. District Court for the District of New Jersey.

Civil actions

The bill permits a person, group, or entity adversely affected by such manner of conduct to bring a civil action against the political subdivision seeking damages, declaratory relief, injunctive relief, or a combination thereof. In addition to any damages awarded against the political subdivision, the bill specifies the circumstances wherein the court is required to award reasonable expenses to the plaintiff(s) to be paid by the political subdivision. This provision should have no direct fiscal effect on political subdivisions, as there do not appear to be any political subdivisions currently in violation of the prohibition against firearm liability insurance or fees.

¹[“San Jose asks judge to toss challenge to gun insurance law,”](#) is available on Reuters website at [Reuters.com](#).

²[“The nation’s first law requiring gun owners to have liability insurance may affect less than you think,”](#) is available on CNN’s website at [CNN.com](#).

³ [“Governor Murphy Signs Gun Safety Bill Strengthening Concealed Carry Laws in New Jersey in Response to Bruen Decision,”](#) is available on the New Jersey Governor’s website at [nj.gov](#) under “News.”

⁴ [“N.J. withdraws threat of appeal in federal challenge of gun law,”](#) is available on the New Jersey Monitor’s website at [newjerseymonitor.com](#).

Gun ownership statistics for Ohio

There is limited reliable data on the extent of gun ownership in Ohio. Bulleted below are some of the available gun statistics for Ohio which may provide some context on the bill's potential impact.

- The RAND Corporation published a 2020 study on adults who reported owning at least one gun.⁵ According to the study, 40% of adults in Ohio have at least one firearm at home.
- The Bureau of Alcohol, Tobacco, and Firearms (ATF) publishes a list of federally registered weapons by state. It covers only a subsection of weapons – short-barreled shotgun, short-barreled rifle, machinegun, destructive device, silencer, and “other weapons” – but does not include ordinary pistols.⁶ For Ohio, as of May 2021, the ATF reported 208,661 total registered weapons.

Second Amendment Financial Privacy Act

The bill prohibits agents and employees of governmental entities from knowingly keeping or causing to be kept any list, record, or registry of privately owned firearms or the owners of those firearms, except for records kept during the regular course of a criminal investigation and prosecution or as otherwise required by law.

The bill also prohibits “financial institutions” such as a bank, acquirer, or payment card network, from certain actions that could be used to track or regulate the sale of lawful firearms and ammunition purchases (i.e., requiring the assignment of a firearms code or declining a transaction involving a firearms retailer based solely on the assignment of a firearms code).⁷ Under the bill, a payment card includes credit cards, charge cards, debit cards, or any other card that allows a user to purchase goods or services from a merchant.

Fiscal impact

The bill empowers the Attorney General's Office to investigate and enforce the Second Amendment Financial Privacy Act. The Attorney General is authorized to administer oaths, subpoena witnesses, and compel the production of relevant evidence to facilitate these investigations. The bill also exempts certain materials obtained by the Attorney General during these investigations from the public records law. Typically, such investigations are handled by the Office's Consumer Protection Section.

It is difficult to reliably estimate the number of complaints that would be reported to the Attorney General. While the number of investigations is uncertain, there undoubtedly will be some violations discovered, investigated, and then enforced. Upon finding a violation, the Attorney General must issue a written notice to the governmental entity or financial institution

⁵ “[State-Level Estimates of Household Firearm Ownership](https://www.rand.org/pubs/working_papers/20200701.html),” is available on Rand Corporation's website at [rand.org](https://www.rand.org).

⁶ “[Firearms Commerce in U.S., Annual Statistical Update 2021](https://www.atf.gov/firearms/commerce),” is available on the Bureau of Alcohol, Tobacco, Firearms and Explosives' website at [atf.gov](https://www.atf.gov).

⁷ In September 2022, the International Organization for Standardization approved a new merchant code identifying purchases at firearm retailers. This merchant code would allow credit card companies and other financial institutions to track firearm purchases across the country.

believed to be in violation, who must come into compliance with the law within 30 calendar days or the Attorney General will seek an injunction.

Presumably, most financial institutions and governmental entities will comply with the prohibition. For those that fail to comply, the Attorney General is required to petition a court to impose an injunction to comply, and if that fails, then a civil fine of up to \$1,000 per violation. The bill will create a minimal operating increase for courts of common pleas where injunctions are sought by the Attorney General, including ordering the destruction of records kept in violation of the bill's financial privacy provisions and deciding motions to quash a subpoena. There is no private cause of action.

The civil penalties, if awarded, would likely be deposited into the Consumer Protection Enforcement Fund (Fund 6310) and may, to some degree, offset the Attorney General's costs to enforce the bill's provisions and investigate alleged violations.

The state and political subdivisions generally are expected to comply with the bill's firearm recordkeeping restrictions, and, as a result, would presumably cure any violation before facing a civil penalty following a written notice and/or injunction.