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H.B. 274
134th General Assembly

Bill Analysis

Version: As Introduced

Primary Sponsors: Reps. Upchurch and Jarrells

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SUMMARY

- Repeals the statute that preempts local authority over specified types of firearms-related conduct.

DETAILED ANALYSIS

Repeal of R.C. 9.68

The bill repeals R.C. 9.68.

The version of R.C. 9.68 that came into effect after December 28, 2019, states the General Assembly's finding of the need to provide uniform laws throughout the state regulating the ownership, possession, purchase, other acquisition, transport, storage, carrying, sale, or other transfer of firearms, their components, and their ammunition, including references to the manufacture, taxation, keeping, and reporting of loss or theft of firearms, their components, and their ammunition.¹

The section states the individual right to keep and bear arms is a fundamental individual right that predates the U.S. Constitution and Ohio Constitution. A provision of the section states that the General Assembly also finds and declares that it is proper for law-abiding people to protect themselves, their families, and others from intruders and attackers without fear of prosecution or civil action for acting in defense of themselves or others.²

Under the section, except as specifically provided by the U.S. Constitution, Ohio Constitution, state law, or federal law, a person, without further license, permission, restriction, delay, or process, including by any ordinance, rule, regulation, resolution, practice, or other

¹ R.C. 9.68(A).

² R.C. 9.68(A).

action or any threat of citation, prosecution, or other legal process, may own, possess, purchase, acquire, transport, store, carry, sell, transfer, manufacture, or keep any firearm, part of a firearm, its components, and its ammunition. R.C. 9.68 preempts, supersedes, and declares null and void any further license, permission, restriction, delay, which interferes with the fundamental individual right described above and unduly inhibits law-abiding people from protecting themselves, their families, and others from intruders and attackers and from other legitimate uses of constitutionally protected firearms, including hunting and sporting activities.³ A person, group, or entity adversely affected by any manner of ordinance, rule, regulation, resolution, practice, or other action enacted or enforced by a political subdivision in conflict with the provisions described above may bring a civil action against the subdivision seeking damages from the subdivision, declaratory relief, injunctive relief, or a combination of those remedies. Any damages awarded are awarded against, and paid by, the political subdivision.⁴

In addition to any actual damages awarded against the political subdivision and other relief provided with respect to such an action, the court must award reasonable expenses to any person, group, or entity that brings the action, to be paid by the subdivision, if either of the following applies: (i) the person, group, or entity prevails in a challenge to the ordinance, rule, regulation, resolution, practice, or action as being in conflict with the provisions described above, or (ii) the ordinance, rule, regulation, resolution, practice, or action or the manner of its enforcement is repealed or rescinded after the civil action was filed but prior to a final court determination of the action.⁵

“Reasonable expenses” includes, but is not limited to, reasonable attorney’s fees, court costs, expert witness fees, and compensation for loss of income.⁶

The section does not apply to either a zoning ordinance that regulates or prohibits the commercial sale of knives, firearms, firearm components, or ammunition for firearms in areas zoned for residential or agricultural uses; or a zoning ordinance that specifies the hours of operation or the geographic areas where the commercial sale of knives, firearms, firearm components, or ammunition for firearms may occur, provided that the zoning ordinance is consistent with zoning ordinances for other retail establishments in the same geographic area and does not result in a de facto prohibition of the commercial sale of knives, firearms, firearm components, or ammunition for firearms in areas zoned for commercial, retail, or industrial uses.⁷

³ R.C. 9.68(A).

⁴ R.C. 9.68(B).

⁵ R.C. 9.68(B)(1) and (2).

⁶ R.C. 9.68(C).

⁷ R.C. 9.68(D).

HISTORY

Action	Date
Introduced	04-27-21
