



# Ohio Legislative Service Commission

## Bill Analysis

Emily E. Wendel

### H.B. 340

130th General Assembly  
(As Introduced)

**Reps.** Becker, Hood, Lynch, Thompson

---

## BILL SUMMARY

### Firearms, ammunition, and accessories manufactured in Ohio

- States that a personal firearm, a firearm accessory, or ammunition that is manufactured commercially or privately in Ohio and that remains within the borders of Ohio is not subject to federal law or federal regulation, including registration.
- Declares that those items have not traveled in interstate commerce.
- Specifies that a firearm accessory that is imported into Ohio, that is subject to federal regulation, and that is attached to or used in conjunction with a firearm in Ohio does not subject that firearm to federal regulation.
- Requires a firearm, firearm accessory, or ammunition to meet certain standards in order to be exempted from federal regulation under the bill.
- Requires a firearm manufactured in Ohio on or after the effective date of the bill to have the words "Made in Ohio" stamped on it.

### Items not considered to be firearms for the purpose of federal regulation

- Excludes generic and insignificant parts and basic materials from being considered a firearm, firearm accessory, or ammunition that would be subject to federal regulation.

### Statement of legal authority

- States that certain provisions of the U.S. Constitution and the Ohio Constitution provide the legal authority for the bill.

---

## CONTENT AND OPERATION

### Firearms, ammunition, and accessories manufactured in Ohio

#### Generally

The bill states that a personal firearm, a firearm accessory, or ammunition that is manufactured commercially or privately in Ohio and that remains within the borders of Ohio is not subject to federal law or federal regulation, including registration, under Congress's authority to regulate interstate commerce. Under the bill, the General Assembly declares that those items have not traveled in interstate commerce. Additionally, the bill specifies that a firearm accessory that is imported into Ohio, that is subject to federal regulation, and that is attached to or used in conjunction with a firearm in Ohio does not subject that firearm to federal regulation (see **COMMENT**).<sup>1</sup>

#### Application

The bill's provisions apply to a firearm, a firearm accessory, or ammunition that meets all of the following requirements:<sup>2</sup>

- The item is manufactured in Ohio from basic materials.
- The item can be manufactured without the inclusion of any significant parts imported from another state or foreign country.
- The item was manufactured and retained in Ohio on or after the bill's effective date.
- If the item is a firearm, the firearm can be carried and used by one person.
- If the item is a firearm, the firearm does not have a bore diameter greater than 1½ inches and use smokeless powder, instead of black powder, as a propellant.
- If the item is a firearm other than a shotgun, the firearm does not discharge two or more projectiles with one activation of the trigger or other firing device.

---

<sup>1</sup> R.C. 2923.27.

<sup>2</sup> R.C. 2923.27, 2923.29, and 2923.30.



- If the item is ammunition, the ammunition does not have a projectile that explodes using an explosion of chemical energy after the projectile leaves the firearm.

Under the bill, "firearm" has the same meaning as in Ohio's continuing Firearms Law, while "firearms accessory" means any item that is used in conjunction with or mounted upon a firearm but that is not essential to the basic function of a firearm, including, but not limited to, any telescopic or laser sight, magazine, flash or sound suppressor, folding or aftermarket stock or grip, speed loader, ammunition carrier, or light for target identification.

The bill defines "ammunition" as any projectile capable of being expelled or propelled from a firearm by the action of an explosive or combustible propellant, but not a projectile designed to pierce armor. Finally, the bill states that "manufactured" means the creation of a firearm, a firearm accessory, or ammunition from basic materials for functional usefulness, including, but not limited to, forging, casting, machining, or any other process for working materials.<sup>3</sup>

### **Labeling of firearms manufactured in Ohio**

Under the bill, a firearm manufactured in Ohio on or after the effective date of the bill must have the words "Made in Ohio" stamped on a central metallic part, such as the receiver or frame.<sup>4</sup>

### **Items not considered to be firearms for the purpose of federal regulation**

The bill also excludes certain items from being considered a firearm, firearm accessory, or ammunition that would be subject to federal regulation. First, under the bill, generic and insignificant parts that have other manufacturing or consumer product applications are not considered firearms, firearm accessories, or ammunition. The bill defines "generic and insignificant parts" to include springs, screws, nuts, and pins. Importing generic and insignificant parts and incorporating them into a firearm, firearm accessory, or ammunition manufactured in Ohio does not subject the firearm, firearm accessory, or ammunition to federal regulation.

Second, under the bill, basic materials, including unmachined steel and unshaped wood, are not firearms, firearm accessories, or ammunition and are not subject to Congress's authority to regulate firearms, firearm accessories, and ammunition. And, the bill states that Congress's authority to regulate interstate

---

<sup>3</sup> R.C. 2923.26

<sup>4</sup> R.C. 2923.30.

commerce in basic materials does not include authority to regulate firearms, firearm accessories, or ammunition made in Ohio from those materials (see **COMMENT**).<sup>5</sup>

### **Statement of legal authority**

The bill states that the authority for its provisions consists of the following:<sup>6</sup>

- The Tenth Amendment to the U.S. Constitution guarantees to the states and their people all powers not granted to the federal government elsewhere in the Constitution and reserves to Ohio and the people of Ohio certain powers as they were understood at the time that Ohio was admitted to statehood. The guaranty of those powers is a matter of contract between Ohio and the people of Ohio and the United States as of the time that Ohio was admitted to statehood.
- The Ninth Amendment to the U.S. Constitution guarantees to the people rights not granted in the Constitution and reserves to the people of Ohio certain rights, as they were understood at the time that Ohio was admitted to statehood. The guaranty of those rights is a matter of contract between Ohio and the people of Ohio and the United States as of the time that Ohio was admitted to statehood.
- The regulation of intrastate commerce is vested in the states under the Ninth and Tenth Amendments to the U.S. Constitution.
- The Second Amendment to the U.S. Constitution reserves to the people the right to keep and bear arms as that right was understood at the time that Ohio was admitted to statehood, and the guaranty of the right is a matter of contract between Ohio and the people of Ohio and the United States as of the time that Ohio was admitted to statehood.
- Article I, Section 4 of the Ohio Constitution clearly secures to the people of Ohio the right to bear arms for their defense and security, and prohibits government interference with that right. This right and this constitutional protection are similar to the right and constitutional protection granted in Article VIII, Section 20 of the 1802 Ohio Constitution ("the people have the right to bear arms for the defence of themselves and the state"), and the right and constitutional protection exist as they did and were agreed upon

---

<sup>5</sup> R.C. 2923.26 and 2923.27.

<sup>6</sup> R.C. 2923.28.



by Ohio and the United States at the time that Ohio was admitted to statehood.

---

## COMMENT

A reviewing court might rule that the provisions of the bill are not enforceable. The Commerce Clause of the U.S. Constitution gives Congress the authority to regulate commerce between the states.<sup>7</sup> The U.S. Supreme Court has ruled that under the Commerce Clause, the federal government may regulate items and activities that exist solely within a state if those items or activities, when taken in the aggregate, affect interstate commerce.<sup>8</sup>

If a court found that firearms or related items that were made in Ohio and remained in Ohio affected interstate commerce, the court likely would hold that the federal government has the power to regulate those items, regardless of any state law to the contrary. A federal appeals court has ruled a similar Montana law unconstitutional on the ground that the federal government's authority under the Commerce Clause extends to the manufacture and sale of firearms within the state.<sup>9</sup> However, that decision would not be binding on an Ohio court, should an Ohio court hear the issue.

---

## HISTORY

ACTION	DATE
Introduced	11-07-13

H0340-I-130.docx/ks

---

<sup>7</sup> U.S. Const. Art. I, Sec. 8.

<sup>8</sup> *Gonzales v. Raich*, 545 U.S. 1 (2005) and *Wickard v. Filburn*, 317 U.S. 111 (1942).

<sup>9</sup> *Montana Shooting Sports Association v. Holder*, 727 F.3d 975 (9th Cir. 2013).

