

As Introduced

**132nd General Assembly
Regular Session
2017-2018**

H. B. No. 151

Representative Patmon

A BILL

To enact section 2923.26 of the Revised Code to 1
prohibit a transfer of a firearm from a person 2
who is not a federally licensed firearms dealer 3
to a person who is not a federally licensed 4
firearms dealer unless it is done through a 5
federally licensed firearms dealer, through a 6
state or local law enforcement agency, or 7
pursuant to a specified exception; to require 8
that background checks be conducted when a 9
firearm is transferred through a federally 10
licensed firearms dealer or a state or local law 11
enforcement agency; and to provide for 12
recordkeeping with respect to information 13
obtained pursuant to such a background check. 14

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 2923.26 of the Revised Code be 15
enacted to read as follows: 16

Sec. 2923.26. (A) As used in this section: 17

(1) "Federally licensed firearms dealer" has the same 18
meaning as in section 5502.63 of the Revised Code. 19

(2) "Unlicensed transferee" means a person who is not a 20
federally licensed firearms dealer and who desires to receive a 21
firearm from an unlicensed transferor. 22

(3) "Unlicensed transferor" means a person who is not a 23
federally licensed firearms dealer and who desires to transfer a 24
firearm to an unlicensed transferee. 25

(4) "Identification document" means a document made or 26
issued by or under the authority of the United States 27
government, this state, or any other state, a political 28
subdivision of this state or any other state, a sponsoring 29
entity of an event designated as a special event of national 30
significance, a foreign government, a political subdivision of a 31
foreign government, an international governmental organization, 32
or an international quasi-governmental organization that, when 33
completed with information concerning a particular individual, 34
is of a type intended or commonly accepted for the purpose of 35
identification of individuals. 36

(B) No federally licensed firearms dealer shall transfer a 37
firearm to any person unless the federally licensed firearms 38
dealer complies with the requirements of 18 U.S.C. 922(t). 39

(C)(1) No unlicensed transferor shall transfer a firearm 40
to an unlicensed transferee, unless both of the following apply 41
with respect to the transfer of the firearm: 42

(a) The firearm is transferred through a federally 43
licensed firearms dealer under division (E) of this section, 44
through a law enforcement agency under division (F) of this 45
section, or in accordance with an exception described in 46
division (G) of this section. 47

(b) The firearm is transferred in accordance with division 48

(C) (2) of this section. 49

(2) Except as provided in division (G) of this section, an 50
unlicensed transferor shall not do any of the following: 51

(a) Subject to division (C) (2) (b) of this section, 52
transfer a firearm to an unlicensed transferee until the 53
federally licensed firearms dealer through which the transfer is 54
made under division (E) of this section gives a notice described 55
in division (E) (4) (a) of this section, or the law enforcement 56
agency through which the transfer is made under division (F) of 57
this section gives a notice described in division (F) (4) (a) of 58
this section; 59

(b) Transfer a firearm to an unlicensed transferee if the 60
federally licensed firearms dealer through which the transfer is 61
made under division (E) of this section gives a notice described 62
in division (E) (4) (b) of this section, or the law enforcement 63
agency through which the transfer is made under division (F) of 64
this section gives a notice described in division (F) (4) (b) of 65
this section. 66

(3) Nothing in this section permits or authorizes the 67
attorney general of this state or the attorney general of the 68
United States to impose recordkeeping requirements on any 69
unlicensed transferor. 70

(D) (1) No unlicensed transferee shall receive a firearm 71
from an unlicensed transferor, unless both of the following 72
apply with respect to the transfer of the firearm: 73

(a) The firearm is transferred through a federally 74
licensed firearms dealer under division (E) of this section, 75
through a law enforcement agency under division (F) of this 76
section, or in accordance with an exception described in 77

<u>division (G) of this section.</u>	78
<u>(b) The firearm is transferred in accordance with division (D) (2) of this section.</u>	79 80
<u>(2) Except as provided in division (G) of this section, an unlicensed transferee shall not do any of the following:</u>	81 82
<u>(a) Subject to division (D) (2) (b) of this section, receive a firearm from an unlicensed transferor until the federally licensed firearms dealer through which the transfer is made under division (E) of this section gives a notice described in division (E) (4) (a) of this section, or the law enforcement agency through which the transfer is made under division (F) of this section gives a notice described in division (F) (4) (a) of this section;</u>	83 84 85 86 87 88 89 90
<u>(b) Receive a firearm from another unlicensed transferor if the federally licensed firearms dealer through which the transfer is made under division (E) of this section gives a notice described in division (E) (4) (b) of this section, or the law enforcement agency through which the transfer is made under division (F) of this section gives a notice described in division (F) (4) (b) of this section.</u>	91 92 93 94 95 96 97
<u>(E) A federally licensed firearms dealer who agrees to assist in the transfer of a firearm between an unlicensed transferor and an unlicensed transferee under division (C) or (D) of this section shall do all of the following:</u>	98 99 100 101
<u>(1) Enter any information about the firearm that the attorney general of this state or the attorney general of the United States may require by rule or regulation into a separate bound record;</u>	102 103 104 105
<u>(2) Record the transfer on a form prescribed by the</u>	106

attorney general of this state pursuant to division (J) of this 107
section; 108

(3) Comply with 18 U.S.C. 922(t) as if transferring the 109
firearm from the inventory of the federally licensed firearms 110
dealer to the unlicensed transferee, except that a federally 111
licensed firearms dealer assisting in the transfer of a firearm 112
under this division shall not be required to comply again with 113
the requirements of that provision in delivering the firearm to 114
the unlicensed transferee; 115

(4) Notify the unlicensed transferor and unlicensed 116
transferee of both of the following: 117

(a) Of compliance with 18 U.S.C. 922(t) as provided in 118
division (E) (3) of this section; 119

(b) If the transfer is subject to 18 U.S.C. 922(t) (1), of 120
receipt by the federally licensed firearms dealer of a notice 121
from the national instant criminal background check system that 122
the transfer would violate 18 U.S.C. 922 or the law of this 123
state. 124

(5) Not later than thirty-one days after the date on which 125
the transfer occurs, submit to the attorney general of the 126
United States a report of the transfer on a form prescribed by 127
the attorney general of this state pursuant to division (J) of 128
this section that does not include the name of or other 129
identifying information relating to the unlicensed transferor or 130
unlicensed transferee; 131

(6) If the federally licensed firearms dealer assists an 132
unlicensed transferor in transferring at the same time or during 133
any five consecutive business days two or more pistols or 134
revolvers, or any combination of pistols and revolvers totaling 135

two or more, to the same unlicensed transferee, in addition to 136
the reports required under division (E) (5) of this section, 137
prepare a report of the multiple transfers on a form prescribed 138
by the attorney general of this state pursuant to division (J) 139
of this section and submit the report not later than the close 140
of business on the date on which the transfer requiring the 141
report under this division occurs to the office specified on the 142
form described in division (E) (5) of this section and to the 143
bureau of criminal identification and investigation; 144

(7) Retain a record of the transfer as part of the 145
permanent business records of the federally licensed firearms 146
dealer. 147

(F) A law enforcement agency of this state or of a 148
political subdivision of this state that agrees to assist an 149
unlicensed transferor in carrying out the responsibilities of 150
the unlicensed transferor under division (C) of this section 151
with respect to the transfer of a firearm shall do all of the 152
following: 153

(1) Contact the national instant criminal background check 154
system under 18 U.S.C. 922(t) and either receive an 155
identification number as described in 18 U.S.C. 922(t) (1) (B) (i) 156
or wait the period described in 18 U.S.C. 922(t) (1) (B) (ii); 157

(2) Conduct any other checks that the agency considers 158
appropriate to determine whether the receipt or possession of 159
the firearm by the unlicensed transferee would violate 18 U.S.C. 160
922 or the law of this state; 161

(3) Verify the identity of the unlicensed transferee by 162
either examining a valid identification document of the 163
unlicensed transferee containing a photograph of the unlicensed 164

transferee or confirming that the unlicensed transferor has 165
examined such a valid identification document; 166

(4) Notify the unlicensed transferor and transferee of all 167
of the following: 168

(a) The compliance by the law enforcement agency with the 169
requirements under divisions (F) (1), (2), and (3) of this 170
section; 171

(b) Any receipt by the law enforcement agency of a 172
notification from the national instant criminal background check 173
system or other information that the transfer would violate 18 174
U.S.C. section 922 or would violate the law of this state. 175

(5) Not later than thirty-one days after the date on which 176
the transfer occurs, submit to the attorney general of the 177
United States a report of the transfer on a form prescribed by 178
the attorney general of this state pursuant to division (J) of 179
this section that does not include the name of or other 180
identifying information relating to the unlicensed transferor or 181
unlicensed transferee; 182

(6) If the law enforcement agency assists an unlicensed 183
transferor in transferring at the same time or during any five 184
consecutive business days two or more pistols or revolvers, or 185
any combination of pistols and revolvers totaling two or more, 186
to the same unlicensed transferee, in addition to the reports 187
required under division (F) (5) of this section, prepare a report 188
of the multiple transfers on a form prescribed by the attorney 189
general of this state pursuant to division (J) of this section 190
and submit the report not later than twenty-four hours after the 191
transfer requiring the report under this division occurs to the 192
office specified on the form described in division (E) (5) of 193

this section and to the bureau of criminal identification and 194
investigation; 195

(7) Maintain records of the transfer at any place, and in 196
any form, that the attorney general of this state or the 197
attorney general of the United States may prescribe. 198

(G) Unless prohibited by any other provision of law, 199
divisions (C) and (D) of this section shall not apply to any 200
transfer of a firearm between an unlicensed transferor and 201
unlicensed transferee if any of the following apply with respect 202
to the transfer: 203

(1) The transfer is a bona fide gift between immediate 204
family members, including spouses, parents, children, siblings, 205
grandparents, and grandchildren. 206

(2) The transfer occurs by operation of law, or because of 207
the death of another person for whom the unlicensed transferor 208
is an executor or administrator of an estate or a trustee of a 209
trust created in a will. 210

(3) The transfer is temporary and occurs while in the home 211
of the unlicensed transferee, the unlicensed transferee is not 212
otherwise prohibited from possessing firearms, and the 213
unlicensed transferee believes that possession of the firearm is 214
necessary to prevent imminent death or great bodily harm to the 215
unlicensed transferee. 216

(4) The transfer is approved by the attorney general of 217
the United States pursuant to 26 U.S.C 5812. 218

(5) The transfer is a temporary transfer of possession 219
without transfer of title that takes place in any of the 220
following circumstances: 221

(a) At a shooting range located in or on premises owned or 222
occupied by a duly incorporated organization organized for 223
conservation purposes or to foster proficiency in firearms; 224

(b) At a target firearm shooting competition under the 225
auspices of or approved by an agency of this state or a 226
nonprofit organization; 227

(c) While hunting, fishing, or trapping, if the activity 228
is legal in all places where the unlicensed transferee possesses 229
the firearm, and the unlicensed transferee holds any required 230
license or permit. 231

(6) The transfer is to an authorized representative of a 232
law enforcement agency of any municipal corporation, any county, 233
this state, or the federal government for exclusive use by that 234
governmental entity and, prior to the transfer, written 235
authorization from the head of the agency authorizing the 236
transaction is presented to the person from whom the transfer is 237
being made. The proper written authorization shall be verifiable 238
written certification from the head of the agency by which the 239
transferee is employed, identifying the employee as an 240
individual authorized to conduct the transaction, and 241
authorizing the transaction for the exclusive use of the agency 242
by which that person is employed. 243

(7) The transfer is a loan of the firearm by an authorized 244
law enforcement representative of a municipal corporation, a 245
county, this state, or the federal government, the loan is made 246
to a peace officer who is employed by that governmental entity 247
and authorized to carry a firearm, and the loan is made for the 248
carrying and use of that firearm by that peace officer in the 249
course and scope of the officer's duties. 250

<u>(8) The transfer is by a law enforcement agency to a peace officer.</u>	251 252
<u>(9) The transfer is by a law enforcement agency to a retiring peace officer of that agency who is authorized to carry a firearm.</u>	253 254 255
<u>(10) The transfer is to an authorized representative of a municipal corporation, a county, this state, or the federal government and is for the governmental entity, and the entity is acquiring the firearm as part of an authorized, voluntary program in which the entity is buying or receiving weapons from private individuals.</u>	256 257 258 259 260 261
<u>(11) The transfer is by an authorized law enforcement representative of a municipal corporation, a county, this state, or the federal government to any public or private nonprofit historical society, museum, or institutional collection, if all of the following conditions are met:</u>	262 263 264 265 266
<u>(a) The entity receiving the firearm is open to the public.</u>	267 268
<u>(b) The firearm prior to delivery is deactivated or rendered inoperable.</u>	269 270
<u>(c) The firearm is not of a type prohibited by provision of law from being transferred to the public at large.</u>	271 272
<u>(d) Prior to delivery, the entity receiving the firearm submits a written statement to the law enforcement representative stating that the firearm will not be restored to operating condition and will either remain with that entity, or if subsequently disposed of, will be transferred in accordance with the applicable provisions of law.</u>	273 274 275 276 277 278

(12) The transfer is by any person other than a 279
representative of an authorized law enforcement agency to any 280
public or private nonprofit historical society, museum, or 281
institutional collection, if all of the conditions set forth in 282
divisions (G) (11) (a) to (d) of this section are met. 283

(13) The transfer is delivery of a firearm to a gunsmith 284
for service or repair, is the return of the firearm to its owner 285
by the gunsmith, or is the delivery of a firearm by a gunsmith 286
to a federally licensed firearms dealer for service or repair or 287
the return of the firearm to the gunsmith. 288

(14) The transfer is made by a person who resides in this 289
state, is made to a person who resides outside this state and is 290
a federally licensed firearms dealer, and is in accordance with 291
federal firearms law. 292

(15) The transfer is of any unloaded firearm to a 293
wholesaler as merchandise in the wholesaler's business by a 294
manufacturer or importer licensed to engage in that business 295
pursuant to federal firearms law or by another wholesaler and is 296
made in accordance with federal firearms law. 297

(H) A federally licensed firearms dealer or law 298
enforcement agency that processes the transfer of a firearm 299
under this section may assess and collect a fee, in an amount 300
not to exceed ten dollars, with respect to each firearm transfer 301
processed. 302

(I) Nothing in division (F) (7) of this section shall be 303
construed to authorize the attorney general of this state or the 304
attorney general of the United States to inspect records 305
described in that division or to require that the records be 306
transferred to a facility owned, managed, or controlled by this 307

state or the United States. 308

(J) The attorney general of this state by rule shall 309
prescribe the forms to be used for keeping the records and 310
making the reports required under this section. If the attorney 311
general of the United States adopts forms to be used for keeping 312
similar records and making similar reports that may be required 313
under federal law, the attorney general of this state shall 314
prescribe those forms to be used for keeping the records and 315
making the reports required under this section. 316

(K) Whoever violates division (B), (C), or (D) of this 317
section is guilty of illegal transfer of a firearm. Except as 318
otherwise provided in this division, illegal transfer of a 319
firearm is a misdemeanor of the first degree. If the offender 320
previously has been convicted of or pleaded guilty to a 321
violation of this section, illegal transfer of a firearm is a 322
felony of the fifth degree. 323