



# OHIO LEGISLATIVE SERVICE COMMISSION

---

## Bill Analysis

Nicholas A. Keller

### **H.B. 153**

132nd General Assembly  
(As Introduced)

Rep. Patmon

---

#### **BILL SUMMARY**

- Prohibits any person from knowingly manufacturing or selling an imitation firearm in Ohio, subject to certain exceptions.
  - Prohibits any person from knowingly modifying an imitation firearm in a way that makes it look more like a firearm, subject to certain exceptions.
  - Prohibits any person from knowingly modifying a firearm in a way that makes it look more like an imitation firearm.
  - Prohibits any person from knowingly openly displaying or exposing any imitation firearm in a public place, subject to certain exceptions.
  - Requires any imitation firearm manufactured in Ohio to have a conspicuous advisory on the packaging that the product may be mistaken for a firearm; that altering the required markings is dangerous and may be a crime; and that brandishing the product in public may cause confusion and may be a crime.
  - Specifies that the bill's requirements apply on and after December 19, 2018.
- 

#### **CONTENT AND OPERATION**

##### **Manufacture or sale of an illegal imitation firearm**

###### **Prohibition**

The bill prohibits any person from knowingly manufacturing or selling an imitation firearm in this state on or after December 19, 2018. Whoever violates this prohibition is guilty of illegal manufacture or sale of an illegal imitation firearm, a first

degree misdemeanor.<sup>1</sup> Under continuing law, the maximum punishment for a first degree misdemeanor is a jail term of 180 days and a \$1,000 fine.<sup>2</sup>

### **Devices exempt from the prohibition**

The bill does not prohibit the manufacture or sale of any of the following:<sup>3</sup>

- A nonfiring collector's replica that is historically significant and is offered for sale in conjunction with a wall plaque or presentation case;
- A BB device that is a spot marker gun that expels a projectile that is greater than 10mm caliber;
- A BB device that expels a projectile, such as a BB or pellet, that is other than 6mm or 8mm caliber;
- A BB device that is an airsoft gun that expels a projectile, such as a BB or pellet, that is 6mm or 8mm caliber, if the device complies with the requirements of federal law;
- An imitation firearm that contains, or has affixed to it, a marking that complies with the applicable requirements of federal law.

A "BB device" under the bill is an instrument that expels a projectile, such as a BB or a pellet, through the force of air pressure, gas pressure, or spring action, including any airsoft gun and any spot marker or paintball gun. An "imitation firearm" under the bill is a BB device, replica of a firearm, or other device that is so substantially similar in overall appearance to an existing firearm as to lead a reasonable person to perceive that the device is a firearm, regardless of the color of the device.<sup>4</sup>

### **Exemptions for imitation firearms sold for a particular purpose**

The bill does not prohibit the manufacture or sale of an imitation firearm for any of the following purposes:<sup>5</sup>

- Solely for export in interstate or foreign commerce;

---

<sup>1</sup> R.C. 2923.52(A), (B), and (C).

<sup>2</sup> R.C. 2929.24 and 2929.28, not in the bill.

<sup>3</sup> R.C. 2923.52(D).

<sup>4</sup> R.C. 2923.51.

<sup>5</sup> R.C. 2923.52(E).



- Solely for lawful use in any theatrical production, including any motion picture, video, television, or stage production;
- For use in a certified or regulated sporting event or competition;
- For use in any military or civil defense activity or ceremonial activity.

### **Alteration of an imitation firearm**

The bill prohibits any person, on or after December 19, 2018, from knowingly modifying an imitation firearm in a way that makes the imitation firearm look more like a firearm. Whoever violates this prohibition is guilty of "alteration of an imitation firearm," a first degree misdemeanor.<sup>6</sup>

This prohibition does not apply to a lawful use of an imitation firearm in any theatrical production, including any motion picture, video, television, or stage production.<sup>7</sup>

### **Disguising a firearm as an imitation firearm**

The bill prohibits any person, on or after December 19, 2018, from knowingly modifying a firearm in a way that makes the firearm look more like an imitation firearm. Whoever violates this prohibition is guilty of "disguising a firearm as an imitation firearm," a first degree misdemeanor.<sup>8</sup>

### **Illegal public display of an imitation firearm**

The bill prohibits any person from knowingly openly displaying or exposing any imitation firearm in a public place on or after December 19, 2018. A "public place" under the bill is an area open to the public, including any of the following: a street, alley, sidewalk, driveway, or parking lot; a bridge; a plaza or park; a front yard; a motor vehicle, whether moving or not; a building open to the general public, including one that serves food or drink or that provides entertainment; a doorway or entrance to a building or dwelling; a school operated by a board of education or a community school; any premises owned or leased by a public or private college, university, or other

---

<sup>6</sup> R.C. 2923.53(A) and (C)(1).

<sup>7</sup> R.C. 2923.53(D).

<sup>8</sup> R.C. 2923.53(B) and (C)(2).

institution of higher education. Whoever violates this prohibition is guilty of "illegal public display of an imitation firearm," a first degree misdemeanor.<sup>9</sup>

This prohibition does not apply in any of the following circumstances:<sup>10</sup>

- The imitation firearm is displayed or exposed in the course of commerce, including a commercial film or video production, or for service, repair, or restoration of the imitation firearm.
- The imitation firearm is used as a prop in a theatrical production, including any motion picture, video, television, or stage production.
- The imitation firearm is used in conjunction with a certified or regulated sporting event or competition.
- The imitation firearm is used in conjunction with lawful hunting or a lawful pest control activity.
- The imitation firearm is used or possessed at a certified or regulated public or private shooting range.
- The imitation firearm is used at a fair, exhibition, exposition, or other similar activity for which a permit has been obtained from a local or state government.
- The imitation firearm is used in a military, civil defense, or civic activity, including a flag ceremony, color guard, parade, award presentation, historical reenactment, or memorial.
- The imitation firearm is used for a display that is part of a museum collection.
- The imitation firearm is used in a parade, ceremony, or other similar activity for which a permit has been obtained from a local or state government.
- The imitation firearm is displayed on a wall plaque or in a presentation case.

---

<sup>9</sup> R.C. 2923.51 and 2923.54(A) and (B).

<sup>10</sup> R.C. 2923.54(C).



- The imitation firearm is being used in an area where the discharge of a firearm is lawful.

## Imitation firearm warnings

### Required warning

Any imitation firearm legally manufactured after December 19, 2018, in Ohio must be accompanied, at the time of offer for sale in Ohio, by a conspicuous advisory in writing as part of the packaging of the imitation firearm. The advisory must convey the following information:<sup>11</sup>

- The product may be mistaken for a firearm by law enforcement officers or others.
- Altering the product to make it look more like a firearm is dangerous and may be a crime.
- Brandishing or displaying the product in public may cause confusion and may be a crime.

### Penalties for failure to include the required warning

Whoever knowingly fails to include the required packaging warnings is guilty of failure to provide imitation firearm warnings, a first degree misdemeanor.<sup>12</sup>

---

## HISTORY

ACTION	DATE
Introduced	03-22-17

H-0153-I-132.docx/emr

---

<sup>11</sup> R.C. 2923.55(A) and (B).

<sup>12</sup> R.C. 2923.55(C) and (D).

