

**As Passed by the House**

**135th General Assembly**

**Regular Session**

**2023-2024**

**Am. S. B. No. 58**

**Senators Johnson, Gavarone**

**Cosponsors: Senators Schaffer, Cirino, Brenner, O'Brien, Romanchuk, Hoagland, Antani, Hackett, Landis, McColley, Roegner, Wilkin, Wilson**

**Representatives Abrams, Barhorst, Bird, Callender, Carruthers, Claggett, Click, Creech, Cross, Dobos, Edwards, Ferguson, Fischer, Fowler Arthur, Ghanbari, Gross, Hall, Holmes, Hoops, John, Johnson, Jones, Kick, King, Lampton, LaRe, Lear, Lipps, Lorenz, Mathews, McClain, Merrin, Miller, K., Miller, M., Oelslager, Patton, Pavliga, Peterson, Pizzulli, Plummer, Ray, Robb Blasdel, Roemer, Schmidt, Seitz, Stein, Swearingen, Williams, Willis, Young, T.**

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**A BILL**

To amend section 9.68 and to enact sections 1  
1349.84, 1349.85, and 1349.86 of the Revised 2  
Code to prohibit requiring fees or firearms 3  
liability insurance for the possession of 4  
firearms, or fees for the possession of knives, 5  
and to enact the Second Amendment Financial 6  
Privacy Act. 7

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

**Section 1.** That section 9.68 be amended and sections 8  
1349.84, 1349.85, and 1349.86 of the Revised Code be enacted to 9  
read as follows: 10

**Sec. 9.68.** (A) The individual right to keep and bear arms, 11  
being a fundamental individual right that predates the United 12  
States Constitution and Ohio Constitution, and being a 13

constitutionally protected right in every part of Ohio, the 14  
general assembly finds the need to provide uniform laws 15  
throughout the state regulating the ownership, possession, 16  
purchase, other acquisition, transport, storage, carrying, sale, 17  
other transfer, manufacture, taxation, keeping, and reporting of 18  
loss or theft of firearms, their components, and their 19  
ammunition, and knives. The general assembly also finds and 20  
declares that it is proper for law-abiding people to protect 21  
themselves, their families, and others from intruders and 22  
attackers without fear of prosecution or civil action for acting 23  
in defense of themselves or others. Except as specifically 24  
provided by the United States Constitution, Ohio Constitution, 25  
state law, or federal law, a person, without further license, 26  
permission, restriction, delay, or process, including by any 27  
ordinance, rule, regulation, resolution, practice, or other 28  
action or any threat of citation, prosecution, or other legal 29  
process, may own, possess, purchase, acquire, transport, store, 30  
carry, sell, transfer, manufacture, or keep any firearm, part of 31  
a firearm, its components, and its ammunition, and any knife, 32  
without being required to have firearm liability insurance, and 33  
without being required to pay a fee for the possession of a 34  
firearm, part of a firearm, its components, its ammunition, or a 35  
knife. Any such further license, permission, restriction, delay, 36  
or process interferes with the fundamental individual right 37  
described in this division and unduly inhibits law-abiding 38  
people from protecting themselves, their families, and others 39  
from intruders and attackers and from other legitimate uses of 40  
constitutionally protected arms, including hunting and sporting 41  
activities, and the state by this section preempts, supersedes, 42  
and declares null and void any such further license, permission, 43  
restriction, delay, or process. 44

(B) A person, group, or entity adversely affected by any 45  
manner of ordinance, rule, regulation, resolution, practice, or 46  
other action enacted or enforced by a political subdivision in 47  
conflict with division (A) of this section may bring a civil 48  
action against the political subdivision seeking damages from 49  
the political subdivision, declaratory relief, injunctive 50  
relief, or a combination of those remedies. Any damages awarded 51  
shall be awarded against, and paid by, the political 52  
subdivision. In addition to any actual damages awarded against 53  
the political subdivision and other relief provided with respect 54  
to such an action, the court shall award reasonable expenses to 55  
any person, group, or entity that brings the action, to be paid 56  
by the political subdivision, if either of the following 57  
applies: 58

(1) The person, group, or entity prevails in a challenge 59  
to the ordinance, rule, regulation, resolution, practice, or 60  
action as being in conflict with division (A) of this section. 61

(2) The ordinance, rule, regulation, resolution, practice, 62  
or action or the manner of its enforcement is repealed or 63  
rescinded after the civil action was filed but prior to a final 64  
court determination of the action. 65

(C) As used in this section: 66

(1) The possession, transporting, or carrying of firearms, 67  
their components, their ammunition, or knives include, but are 68  
not limited to, the possession, transporting, or carrying, 69  
openly or concealed on a person's person or concealed ready at 70  
hand, of firearms, their components, their ammunition, or 71  
knives. 72

(2) "Firearm" has the same meaning as in section 2923.11 73

of the Revised Code. 74

(3) "Reasonable expenses" include, but are not limited to, 75  
reasonable attorney's fees, court costs, expert witness fees, 76  
and compensation for loss of income. 77

(4) "Knife" means a cutting instrument and includes a 78  
sharpened or pointed blade. 79

(5) "Arms" includes firearms and knives. 80

(6) "Firearm liability insurance" means a policy of 81  
liability insurance covering losses resulting from the use of a 82  
firearm owned by the person covered by the policy. 83

(D) This section does not apply to either of the 84  
following: 85

(1) A zoning ordinance that regulates or prohibits the 86  
commercial sale of knives, firearms, firearm components, or 87  
ammunition for firearms in areas zoned for residential or 88  
agricultural uses; 89

(2) A zoning ordinance that specifies the hours of 90  
operation or the geographic areas where the commercial sale of 91  
knives, firearms, firearm components, or ammunition for firearms 92  
may occur, provided that the zoning ordinance is consistent with 93  
zoning ordinances for other retail establishments in the same 94  
geographic area and does not result in a de facto prohibition of 95  
the commercial sale of knives, firearms, firearm components, or 96  
ammunition for firearms in areas zoned for commercial, retail, 97  
or industrial uses. 98

Sec. 1349.84. As used in sections 1349.84 to 1349.86 of 99  
the Revised Code: 100

(A) "Ammunition" has the same meaning as in section 101

2305.401 of the Revised Code and includes any ammunition 102  
component. 103

(B) "Assign" or "assignment" refers to a financial 104  
institution's policy, process, or practice that labels, links, 105  
or otherwise associates a firearms code with a merchant or a 106  
payment card transaction in a manner that allows the financial 107  
institution or any other entity facilitating or processing the 108  
payment card transaction to identify whether a merchant is a 109  
firearms retailer or whether a transaction involves the sale of 110  
firearms or ammunition. 111

(C) "Customer" means any person or entity engaged in a 112  
payment card transaction facilitated or processed by a financial 113  
institution. 114

(D) "Financial institution" means a person or entity other 115  
than a merchant involved in facilitating or processing a payment 116  
card transaction, including any bank, as defined in section 117  
1309.102 of the Revised Code, acquirer, payment card issuer, 118  
payment card network, payment gateway, or payment card 119  
processor. 120

(E) "Firearm" has the same meaning as in section 2923.11 121  
of the Revised Code and includes a firearm component or 122  
accessory. 123

(F) "Firearms retailer" means any person or entity that is 124  
lawfully engaged, from a physical place of business in this 125  
state, in selling or trading firearms, antique firearms, or 126  
ammunition to be used in firearms or antique firearms. 127

(G) "Firearms code" means a merchant category code 128  
approved by the international organization for standardization 129  
or an equivalent successor organization and specifically 130

assigned to a firearms retailer. 131

(H) "Government entity" means the state, a political 132  
subdivision of the state, or any court, agency, or 133  
instrumentality of the foregoing. 134

(I) "Payment card" means a credit card, charge card, debit 135  
card, or any other card that is issued to an authorized card 136  
user and allows the user to purchase goods or services from a 137  
merchant. 138

(J) "Payment card transaction" means any transaction in 139  
which a payment card is accepted as payment. 140

**Sec. 1349.85.** (A) Except for those records kept during the 141  
regular course of a criminal investigation and prosecution, or 142  
as otherwise required by law, no government entity or official, 143  
and no agent or employee of a governmental entity shall 144  
knowingly keep or cause to be kept any list, record, or registry 145  
of privately owned firearms or the owners of those firearms. 146

(B) No financial institution or agent of a financial 147  
institution shall do either of the following: 148

(1) Require the assignment of a firearms code in a way 149  
that distinguishes a firearms retailer from other retailers; 150

(2) Subject to divisions (C) and (D) of this section, 151  
decline a payment card transaction involving a firearms retailer 152  
based solely on the assignment of a firearms code. 153

(C) Nothing in this section prohibits a financial 154  
institution from declining or otherwise refusing to process a 155  
payment card transaction for any of the following reasons: 156

(1) If necessary to comply with applicable state or 157  
federal law; 158

<u>(2) If requested by the customer;</u>	159
<u>(3) If necessary due to fraud controls;</u>	160
<u>(4) For the purpose of merchant category exclusions</u>	161
<u>offered by a financial institution for the purpose of</u>	162
<u>expenditure control or corporate card control.</u>	163
<u>(D) Nothing in this section limits the authority of a</u>	164
<u>financial institution to negotiate with responsible parties or</u>	165
<u>otherwise impairs a financial institution's actions related to</u>	166
<u>any of the following:</u>	167
<u>(1) Dispute processing;</u>	168
<u>(2) Fraud risk or credit management or other controls in</u>	169
<u>the ordinary course of business operations;</u>	170
<u>(3) Protecting against illegal activities, breach, or</u>	171
<u>cyber risks;</u>	172
<u>(4) Restricting the use or availability of a firearms code</u>	173
<u>in this state.</u>	174
<b>Sec. 1349.86.</b> <u>(A) (1) The attorney general shall</u>	175
<u>investigate reasonable allegations that a person or entity,</u>	176
<u>including a government entity, has violated section 1349.85 of</u>	177
<u>the Revised Code and, upon finding a violation, provide written</u>	178
<u>notice to the person or entity believed to have committed the</u>	179
<u>violation. The person or entity shall cease the violation within</u>	180
<u>thirty days after receiving notice from the attorney general</u>	181
<u>under this section.</u>	182
<u>(2) The attorney general may administer oaths, subpoena</u>	183
<u>witnesses, adduce evidence, and require the production of</u>	184
<u>relevant matter for the purposes of an investigation under this</u>	185
<u>section.</u>	186

(3) A person or entity subpoenaed by the attorney general 187  
under this section may, within twenty days after the subpoena is 188  
served, file a motion in a court of common pleas of any county 189  
in this state to extend the return day, or to modify or quash 190  
the subpoena. The person or entity shall include in the motion a 191  
statement describing good cause for the requested extension, 192  
modification, or quashing of the subpoena. 193

(4) If a person or entity fails, without lawful excuse, to 194  
obey a subpoena served, or to produce relevant matter requested 195  
under this section, the attorney general may apply to the court 196  
of common pleas of any county in this state for an order 197  
compelling compliance. 198

(5) None of the following are public records for the 199  
purposes of section 149.43 of the Revised Code when obtained by 200  
the attorney general as part of an investigation under this 201  
section: 202

(a) A list, record, or registry of privately owned 203  
firearms or owners of those firearms, kept by a government 204  
entity or official, or agent or employee of a governmental 205  
entity, as prohibited by division (A) of section 1349.85 of the 206  
Revised Code; 207

(b) Records distinguishing a firearms retailer from other 208  
retailers due to the assignment of a firearms code kept by a 209  
financial institution or an agent of a financial institution, as 210  
prohibited by division (B)(1) of section 1349.85 of the Revised 211  
Code; 212

(c) Records identifying any persons whose payment card 213  
transactions were declined by a financial institution or an 214  
agent of a financial institution, as prohibited by division (B) 215



<u>(2) of section 1349.85 of the Revised Code;</u>	216
<u>(d) Records identifying a financial institution or an</u>	217
<u>agent of a financial institution alleged to have engaged in</u>	218
<u>conduct prohibited by section 1349.85 of the Revised Code, other</u>	219
<u>than records of an action or court order under division (B) of</u>	220
<u>this section.</u>	221
<u>(6) No person shall release or otherwise publicly</u>	222
<u>disseminate records described in division (A) (5) of this section</u>	223
<u>unless required to do so pursuant to a court order.</u>	224
<u>(B) (1) If a person or entity does not cease the violation</u>	225
<u>within thirty days after receiving notice from the attorney</u>	226
<u>general under this section, the attorney general shall file an</u>	227
<u>action in the court of common pleas of any county in this state</u>	228
<u>against that person or entity to seek an injunction.</u>	229
<u>(2) If the court finds that the person or entity violated</u>	230
<u>section 1349.85 of the Revised Code and has not ceased the</u>	231
<u>activity constituting the violation, the court shall enjoin the</u>	232
<u>person or entity from continuing such activity and may award any</u>	233
<u>other relief as the court considers appropriate, including</u>	234
<u>destruction of any records kept in violation of section 1349.85</u>	235
<u>of the Revised Code.</u>	236
<u>(3) If a person or entity purposely fails to comply with</u>	237
<u>an injunction issued under division (B) (2) of this section after</u>	238
<u>thirty days of being served with the injunction, the attorney</u>	239
<u>general, upon petition to the court, shall seek to impose on</u>	240
<u>that person or entity a civil fine in an amount not to exceed</u>	241
<u>one thousand dollars per violation. In assessing such a civil</u>	242
<u>fine, the court shall consider factors, including the financial</u>	243
<u>resources of the violator and the harm or risk of harm to the</u>	244

<u>rights under the Second Amendment to the United States</u>	245
<u>Constitution and the Ohio Constitution, Article I, Section 4</u>	246
<u>resulting from the violation.</u>	247
<u>(4) Any order assessing a civil fine under division (B) (3)</u>	248
<u>of this section shall be stayed pending appeal of the order.</u>	249
<u>(C) The attorney general has exclusive authority to</u>	250
<u>enforce section 1349.85 of the Revised Code. The remedies set</u>	251
<u>forth in this section are the exclusive remedies for any</u>	252
<u>violation of that section.</u>	253
<u>(D) It shall be a defense to a proceeding initiated</u>	254
<u>pursuant to this section that a firearms code was required to be</u>	255
<u>disclosed or assigned by law.</u>	256
<b>Section 2.</b> That existing section 9.68 of the Revised Code	257
is hereby repealed.	258
<b>Section 3.</b> The enactment of sections 1349.84, 1349.85, and	259
1349.86 of the Revised Code by this act shall be known as the	260
Second Amendment Financial Privacy Act.	261