

As Passed by the Senate

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S. B. No. 278

Senator Johnson

Cosponsors: Senators O'Brien, Koehler, Manchester, Brenner, Chavez, Cutrona, Gavarone, Huffman, Landis, Lang, Patton, Schaffer, Timken, Wilkin, Wilson

To amend section 9.68 of the Revised Code to permit
individuals to seek punitive or exemplary
damages against municipal corporations that pass
gun control measures.

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

Section 1. That section 9.68 of the Revised Code be
amended to read as follows:

Sec. 9.68. (A) The individual right to keep and bear arms,
being a fundamental individual right that predates the United
States Constitution and Ohio Constitution, and being a
constitutionally protected right in every part of Ohio, the
general assembly finds the need to provide uniform laws
throughout the state regulating the ownership, possession,
purchase, other acquisition, transport, storage, carrying, sale,
other transfer, manufacture, taxation, keeping, and reporting of
loss or theft of firearms, their components, and their
ammunition, and knives. 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. Except as specifically 20
provided by the United States Constitution, Ohio Constitution, 21
state law, or federal law, a person, without further license, 22
permission, restriction, delay, or process, including by any 23
ordinance, rule, regulation, resolution, practice, or other 24
action or any threat of citation, prosecution, or other legal 25
process, may own, possess, purchase, acquire, transport, store, 26
carry, sell, transfer, manufacture, or keep any firearm, part of 27
a firearm, its components, and its ammunition, and any knife, 28
without being required to have firearm liability insurance, and 29
without being required to pay a fee for the possession of a 30
firearm, part of a firearm, its components, its ammunition, or a 31
knife. Any such further license, permission, restriction, delay, 32
or process interferes with the fundamental individual right 33
described in this division and unduly inhibits law-abiding 34
people from protecting themselves, their families, and others 35
from intruders and attackers and from other legitimate uses of 36
constitutionally protected arms, including hunting and sporting 37
activities, and the state by this section preempts, supersedes, 38
and declares null and void any such further license, permission, 39
restriction, delay, or process. 40

(B) A person, group, or entity adversely affected by any 41
manner of ordinance, rule, regulation, resolution, practice, or 42
other action enacted or enforced by a political subdivision in 43
conflict with division (A) of this section may bring a civil 44
action against the political subdivision seeking damages, 45
including punitive or exemplary damages, from the political 46
subdivision, declaratory relief, injunctive relief, or a 47
combination of those remedies. Any damages awarded shall be 48
awarded against, and paid by, the political subdivision. In 49
addition to any actual damages awarded against the political 50

subdivision and other relief provided with respect to such an 51
action, the court shall award reasonable expenses to any person, 52
group, or entity that brings the action, to be paid by the 53
political subdivision, if either of the following applies: 54

(1) The person, group, or entity prevails in a challenge 55
to the ordinance, rule, regulation, resolution, practice, or 56
action as being in conflict with division (A) of this section. 57

(2) The ordinance, rule, regulation, resolution, practice, 58
or action or the manner of its enforcement is repealed or 59
rescinded after the civil action was filed but prior to a final 60
court determination of the action. 61

(C) As used in this section: 62

(1) The possession, transporting, or carrying of firearms, 63
their components, their ammunition, or knives include, but are 64
not limited to, the possession, transporting, or carrying, 65
openly or concealed on a person's person or concealed ready at 66
hand, of firearms, their components, their ammunition, or 67
knives. 68

(2) "Firearm" has the same meaning as in section 2923.11 69
of the Revised Code. 70

(3) "Reasonable expenses" include, but are not limited to, 71
reasonable attorney's fees, court costs, expert witness fees, 72
and compensation for loss of income. 73

(4) "Knife" means a cutting instrument and includes a 74
sharpened or pointed blade. 75

(5) "Arms" includes firearms and knives. 76

(6) "Firearm liability insurance" means a policy of 77
liability insurance covering losses resulting from the use of a 78

firearm owned by the person covered by the policy. 79

(D) This section does not apply to either of the 80
following: 81

(1) A zoning ordinance that regulates or prohibits the 82
commercial sale of knives, firearms, firearm components, or 83
ammunition for firearms in areas zoned for residential or 84
agricultural uses; 85

(2) A zoning ordinance that specifies the hours of 86
operation or the geographic areas where the commercial sale of 87
knives, firearms, firearm components, or ammunition for firearms 88
may occur, provided that the zoning ordinance is consistent with 89
zoning ordinances for other retail establishments in the same 90
geographic area and does not result in a de facto prohibition of 91
the commercial sale of knives, firearms, firearm components, or 92
ammunition for firearms in areas zoned for commercial, retail, 93
or industrial uses. 94

Section 2. That existing section 9.68 of the Revised Code 95
is hereby repealed. 96