



Representatives Jena Powell and J. Todd Smith

House District 80 and 43

Chairman Becker, Vice Chair Stoltzfus, Ranking Member Miller, and Members of the Committee:

Thank you for the opportunity to present joint sponsor testimony today on House Bill 248. Our goal is to make federal and state laws align on antique firearms.

Several months ago, a gun store owner in my district reached out to our office with a dilemma. Ohio law prohibits them from selling an antique firearm to an individual under federal disability, but federal law prohibits them from conducting background checks on an individual buying an antique firearm.

- The federal government requires Ohio to use the federal background check system (NICS). The federal government definition of firearms specifically does not include antique firearms. NICS may not be used to conduct background checks for anything other than a federally defined firearm.
- Currently, the state of Ohio's definition of firearm does not separate out antique firearms. Ohio statute does not allow Ohio firearms dealers to sell firearms (including antique firearms) to those under federal disability; a fact that is unattainable without a background check. However, since antique firearms are not included in the federal definition of firearms, it is illegal for Ohio firearms dealers to conduct a NICS background check on an individual in Ohio wishing to purchase an antique firearm.

HB 248 will solve this problem by making Ohio Revised Code match federal law regarding the sale and possession of antique firearms.

Sellers of antique firearms in Ohio must run a National Instant Criminal Background Check from the FBI's database because Ohio law does not separately classify antique firearms apart from what are federally classified firearms. However, according to U.S. Code Title 18 Section 921(a)(3), the term "firearm" does not include an antique firearm.

Antique firearms are classified in U.S. Code Title 18 Section 921(a)(16) as:

“(A) any firearm (including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system) manufactured in or before 1898; or

(B) any replica of any firearm described in subparagraph (A) if such replica—

(i) is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition, or

(ii) uses rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade; or

(C) any muzzle loading rifle, muzzle loading shotgun, or muzzle loading pistol, which is designed to use black powder, or a black powder substitute, and which cannot use fixed ammunition. For purposes of this subparagraph, the term “antique firearm” shall not include any weapon which incorporates a firearm frame or receiver, any firearm which is converted into a muzzle loading weapon, or any muzzle loading weapon which can be readily converted to fire fixed ammunition by replacing the barrel, bolt, breechblock, or any combination thereof.”

According to the NICS Federal Firearms Licensee User’s Manual Section 7;

“Authorized use of the NICS is strictly limited to the purpose of obtaining information on whether receipt of a firearm by a prospective transferee would violate state and/or federal law. The FFLs, their officers, employees, agents, and/or other representatives are permitted to request background checks of the NICS solely for that authorized purpose.”

Additionally, according the Manual’s same section on Unauthorized Use of the NICS;

“An FFL is never authorized to utilize the NICS for employment or other type of nonBrady Act-mandated background checks. An FFL must have a signed ATF Form 4473 prior to initiating a NICS check. Per 28, C.F.R. §25.11 of the NICS Regulations, accessing or using the NICS, or permitting access to or use of the NICS by another, for any unauthorized purpose is a violation of federal law, sanctions for which may include criminal prosecution, a civil fine not to exceed \$10,000, and/or cancellation of the NICS inquiry privileges.”

Antique firearms do not have serial numbers, and as historical weapons, have no practical use besides historic displays and small game hunting.

If we pass House Bill 248, we will be joining numerous other states in abiding with federal guidelines on antique firearms.

No longer will gun store owners in Ohio need to worry about whether or not to follow federal or state law on the sale of antique firearms, but will be able to carry on serving their communities.

Thank for you the opportunity to provide joint sponsor testimony today. We are happy to answer any questions the committee might have.