As Introduced

134th General Assembly

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H. B. No. 262

Representatives Miranda, Kelly

Cosponsors: Representatives Galonski, Lightbody, Lepore-Hagan, Miller, J., Miller, A., Russo, Crossman, Brown, Sobecki, Leland, Liston, Robinson, Smith, M., Blackshear, Denson, Weinstein, Sheehy

A BILL

То	amend sections 5747.08 and 5747.98 and to enact	1
	sections 2923.191 and 5747.72 of the Revised	2
	Code to enact the Child Access Prevention Tax	3
	Credit Act to prohibit negligent storage of a	4
	firearm, to provide criminal penalties if a	5
	minor gains access to an improperly stored	6
	firearm, and to authorize an income tax credit	7
	for the purchase of firearms safety storage	8
	units	9

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

Section 1. That sections 5747.08 and 5747.98 be amended	10
and sections 2923.191 and 5747.72 of the Revised Code be enacted	11
to read as follows:	12
Sec. 2923.191. (A) (1) No person shall store or leave a	13
firearm in a manner or location in the person's residence where	14
the person knows or reasonably should know a minor is able to	15
gain access to the firearm.	16

(2)(a) This section does not apply to a person who stores	17
or leaves a firearm in the person's residence if the firearm has	18
been secured by placing it in a locked container or has been	19
rendered temporarily inoperable by a tamper-resistant mechanical	20
<pre>lock or other safety device.</pre>	21
(b) This section does not apply to a person who stores or	22
<u>leaves</u> a firearm in the person's residence if a minor gains	23
access to the firearm as a result of any other person's unlawful	24
entry into the person's residence.	25
(c) This section does not apply to a person who stores or	26
<u>leaves</u> a firearm in the person's residence if a minor gains	27
access to the firearm and uses the firearm for the purpose of	28
self-defense.	29
(B) (1) Whoever violates this section is guilty of	30
criminally negligent storage of a firearm if, without the lawful	31
permission of the minor's parent, guardian, or custodian, a	32
minor gains access to the firearm.	33
(2) Except as provided in division (B)(3) or (4) of this	34
section, a violation of this section is a misdemeanor of the	35
third degree.	36
(3) If the minor gains access to the firearm as a result	37
of the violation and uses the firearm to cause serious physical	38
harm, a violation of this section is a felony of the fourth	39
<pre>degree.</pre>	40
(4) If the minor gains access to the firearm as a result	41
of the violation and uses the firearm to cause death, a	42
violation of this section is a felony of the third degree.	43
(C) Nothing in this section prohibits a person who is in	44
the person's residence from carrying a firearm on the person's	45

person or placing a firearm in a location that is under the	46
<pre>person's immediate control.</pre>	47
Sec. 5747.08. An annual return with respect to the tax	48
imposed by section 5747.02 of the Revised Code and each tax	49
imposed under Chapter 5748. of the Revised Code shall be made by	50
every taxpayer for any taxable year for which the taxpayer is	51
liable for the tax imposed by that section or under that	52
chapter, unless the total credits allowed under division (E) of	53
section 5747.05 and divisions (F) and (G) of section 5747.055 of	54
the Revised Code for the year are equal to or exceed the tax	55
imposed by section 5747.02 of the Revised Code, in which case no	56
return shall be required unless the taxpayer is liable for a tax	57
imposed pursuant to Chapter 5748. of the Revised Code.	58
	F.0
(A) If an individual is deceased, any return or notice	59
required of that individual under this chapter shall be made and	60
filed by that decedent's executor, administrator, or other	61
person charged with the property of that decedent.	62
(B) If an individual is unable to make a return or notice	63
required by this chapter, the return or notice required of that	64
individual shall be made and filed by the individual's duly	65
authorized agent, guardian, conservator, fiduciary, or other	66
person charged with the care of the person or property of that	67
individual.	68
(C) Returns or notices required of an estate or a trust	69
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shall be made and filed by the fiduciary of the estate or trust.	70
(D)(1)(a) Except as otherwise provided in division (D)(1)	71
(b) of this section, any pass-through entity may file a single	72
return on behalf of one or more of the entity's investors other	73
than an investor that is a person subject to the tax imposed	74

under section 5733.06 of the Revised Code. The single return	75
shall set forth the name, address, and social security number or	76
other identifying number of each of those pass-through entity	77
investors and shall indicate the distributive share of each of	78
those pass-through entity investor's income taxable in this	79
state in accordance with sections 5747.20 to 5747.231 of the	80
Revised Code. Such pass-through entity investors for whom the	81
pass-through entity elects to file a single return are not	82
entitled to the exemption or credit provided for by sections	83
5747.02 and 5747.022 of the Revised Code; shall calculate the	84
tax before business credits at the highest rate of tax set forth	85
in section 5747.02 of the Revised Code for the taxable year for	86
which the return is filed; and are entitled to only their	87
distributive share of the business credits as defined in	88
division (D)(2) of this section. A single check drawn by the	89
pass-through entity shall accompany the return in full payment	90
of the tax due, as shown on the single return, for such	91
investors, other than investors who are persons subject to the	92
tax imposed under section 5733.06 of the Revised Code.	93

(b) (i) A pass-through entity shall not include in such a single return any investor that is a trust to the extent that any direct or indirect current, future, or contingent beneficiary of the trust is a person subject to the tax imposed under section 5733.06 of the Revised Code.

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- (ii) A pass-through entity shall not include in such a 99 single return any investor that is itself a pass-through entity 100 to the extent that any direct or indirect investor in the second 101 pass-through entity is a person subject to the tax imposed under 102 section 5733.06 of the Revised Code. 103
 - (c) Nothing in division (D) of this section precludes the 104

tax commissioner from requiring such investors to file the	105
return and make the payment of taxes and related interest,	106
penalty, and interest penalty required by this section or	107
section 5747.02, 5747.09, or 5747.15 of the Revised Code.	108
Nothing in division (D) of this section precludes such an	109
investor from filing the annual return under this section,	110
utilizing the refundable credit equal to the investor's	111
proportionate share of the tax paid by the pass-through entity	112
on behalf of the investor under division (I) of this section,	113
and making the payment of taxes imposed under section 5747.02 of	114
the Revised Code. Nothing in division (D) of this section shall	115
be construed to provide to such an investor or pass-through	116
entity any additional deduction or credit, other than the credit	117
provided by division (I) of this section, solely on account of	118
the entity's filing a return in accordance with this section.	119
Such a pass-through entity also shall make the filing and	120
payment of estimated taxes on behalf of the pass-through entity	121
investors other than an investor that is a person subject to the	122
tax imposed under section 5733.06 of the Revised Code.	123
(2) For the purposes of this section, "business credits"	124
means the credits listed in section 5747.98 of the Revised Code	125
excluding the following credits:	126
(a) The retirement income credit under division (B) of	127
section 5747.055 of the Revised Code;	128
(b) The senior citizen credit under division (F) of	129
section 5747.055 of the Revised Code;	130
(c) The lump sum distribution credit under division (G) of	131
section 5747.055 of the Revised Code;	132

(d) The dependent care credit under section 5747.054 of

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the Revised Code;	134
(e) The lump sum retirement income credit under division	135
(C) of section 5747.055 of the Revised Code;	136
(f) The lump sum retirement income credit under division	137
(D) of section 5747.055 of the Revised Code;	138
(g) The lump sum retirement income credit under division	139
(E) of section 5747.055 of the Revised Code;	140
(h) The credit for displaced workers who pay for job	141
training under section 5747.27 of the Revised Code;	142
(i) The twenty-dollar personal exemption credit under	143
section 5747.022 of the Revised Code;	144
(j) The joint filing credit under division (E) of section	145
5747.05 of the Revised Code;	146
(k) The nonresident credit under division (A) of section	147
5747.05 of the Revised Code;	148
(1) The credit for a resident's out-of-state income under	149
division (B) of section 5747.05 of the Revised Code;	150
(m) The earned income tax credit under section 5747.71 of	151
the Revised Code;	152
(n) The lead abatement credit under section 5747.26 of the	153
Revised Code;	154
(o) The credit for firearms safety storage unit purchases	155
under section 5747.72 of the Revised Code.	156
(3) The election provided for under division (D) of this	157
section applies only to the taxable year for which the election	158
is made by the pass-through entity. Unless the tax commissioner	159
provides otherwise, this election, once made, is binding and	160

irrevocable for the taxable year for which the election is made.	161
Nothing in this division shall be construed to provide for any	162
deduction or credit that would not be allowable if a nonresident	163
pass-through entity investor were to file an annual return.	164

- (4) If a pass-through entity makes the election provided 165 for under division (D) of this section, the pass-through entity 166 shall be liable for any additional taxes, interest, interest 167 penalty, or penalties imposed by this chapter if the tax 168 commissioner finds that the single return does not reflect the 169 correct tax due by the pass-through entity investors covered by 170 that return. Nothing in this division shall be construed to 171 limit or alter the liability, if any, imposed on pass-through 172 entity investors for unpaid or underpaid taxes, interest, 173 interest penalty, or penalties as a result of the pass-through 174 entity's making the election provided for under division (D) of 175 this section. For the purposes of division (D) of this section, 176 "correct tax due" means the tax that would have been paid by the 177 pass-through entity had the single return been filed in a manner 178 reflecting the commissioner's findings. Nothing in division (D) 179 of this section shall be construed to make or hold a pass-180 through entity liable for tax attributable to a pass-through 181 entity investor's income from a source other than the pass-182 through entity electing to file the single return. 183
- (E) If a husband and wife file a joint federal income tax
 return for a taxable year, they shall file a joint return under
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 this section for that taxable year, and their liabilities are
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 joint and several, but, if the federal income tax liability of
 either spouse is determined on a separate federal income tax
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 return, they shall file separate returns under this section.

If either spouse is not required to file a federal income

tax return and either or both are required to file a return	191
pursuant to this chapter, they may elect to file separate or	192
joint returns, and, pursuant to that election, their liabilities	193
are separate or joint and several. If a husband and wife file	194
separate returns pursuant to this chapter, each must claim the	195
taxpayer's own exemption, but not both, as authorized under	196
section 5747.02 of the Revised Code on the taxpayer's own	197
return.	198
(F) Each return or notice required to be filed under this	199
section shall contain the signature of the taxpayer or the	200
taxpayer's duly authorized agent and of the person who prepared	201
the return for the taxpayer, and shall include the taxpayer's	202
social security number. Each return shall be verified by a	203
declaration under the penalties of perjury. The tax commissioner	204
shall prescribe the form that the signature and declaration	205
shall take.	206
(G) Each return or notice required to be filed under this	207
section shall be made and filed as required by section 5747.04	208
of the Revised Code, on or before the fifteenth day of April of	209
each year, on forms that the tax commissioner shall prescribe,	210
together with remittance made payable to the treasurer of state	211
in the combined amount of the state and all school district	212
income taxes shown to be due on the form.	213
Upon good cause shown, the commissioner may extend the	214
period for filing any notice or return required to be filed	215
under this section and may adopt rules relating to extensions.	216
If the extension results in an extension of time for the payment	217
of any state or school district income tax liability with	218

respect to which the return is filed, the taxpayer shall pay at

the time the tax liability is paid an amount of interest

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computed at the rate per annum prescribed by section 5703.47 of	221
the Revised Code on that liability from the time that payment is	222
due without extension to the time of actual payment. Except as	223
provided in section 5747.132 of the Revised Code, in addition to	224
all other interest charges and penalties, all taxes imposed	225
under this chapter or Chapter 5748. of the Revised Code and	226
remaining unpaid after they become due, except combined amounts	227
due of one dollar or less, bear interest at the rate per annum	228
prescribed by section 5703.47 of the Revised Code until paid or	229
until the day an assessment is issued under section 5747.13 of	230
the Revised Code, whichever occurs first.	231
If the commissioner considers it necessary in order to	232
ensure the payment of the tax imposed by section 5747.02 of the	233
Revised Code or any tax imposed under Chapter 5748. of the	234
Revised Code, the commissioner may require returns and payments	235
to be made otherwise than as provided in this section.	236
To the extent that any provision in this division	237
conflicts with any provision in section 5747.026 of the Revised	238
Code, the provision in that section prevails.	239
(H) The amounts withheld by an employer pursuant to	240
section 5747.06 of the Revised Code, a casino operator pursuant	241
to section 5747.063 of the Revised Code, or a lottery sales	242
agent pursuant to section 5747.064 of the Revised Code shall be	243
allowed to the recipient of the compensation casino winnings, or	244
lottery prize award as credits against payment of the	245
appropriate taxes imposed on the recipient by section 5747.02	246
and under Chapter 5748. of the Revised Code.	247
(I) If a pass-through entity elects to file a single	248

return under division (D) of this section and if any investor is

required to file the annual return and make the payment of taxes

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required by this chapter on account of the investor's other	251
income that is not included in a single return filed by a pass-	252
through entity or any other investor elects to file the annual	253
return, the investor is entitled to a refundable credit equal to	254
the investor's proportionate share of the tax paid by the pass-	255
through entity on behalf of the investor. The investor shall	256
claim the credit for the investor's taxable year in which or	257
with which ends the taxable year of the pass-through entity.	258
Nothing in this chapter shall be construed to allow any credit	259
provided in this chapter to be claimed more than once. For the	260
purpose of computing any interest, penalty, or interest penalty,	261
the investor shall be deemed to have paid the refundable credit	262
provided by this division on the day that the pass-through	263
entity paid the estimated tax or the tax giving rise to the	264
credit.	265

- (J) The tax commissioner shall ensure that each return 266 required to be filed under this section includes a box that the 267 taxpayer may check to authorize a paid tax preparer who prepared 268 the return to communicate with the department of taxation about 269 matters pertaining to the return. The return or instructions 270 accompanying the return shall indicate that by checking the box 271 the taxpayer authorizes the department of taxation to contact 272 the preparer concerning questions that arise during the 273 processing of the return and authorizes the preparer only to 274 provide the department with information that is missing from the 275 return, to contact the department for information about the 276 processing of the return or the status of the taxpayer's refund 277 or payments, and to respond to notices about mathematical 278 errors, offsets, or return preparation that the taxpayer has 279 received from the department and has shown to the preparer. 280
 - (K) The tax commissioner shall permit individual taxpayers

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to instruct the department of taxation to cause any refund of	282
overpaid taxes to be deposited directly into a checking account,	283
savings account, or an individual retirement account or	284
individual retirement annuity, or preexisting college savings	285
plan or program account offered by the Ohio tuition trust	286
authority under Chapter 3334. of the Revised Code, as designated	287
by the taxpayer, when the taxpayer files the annual return	288
required by this section electronically.	289
(L) A taxpayer claiming the deduction under division (A)	290
(31) of section 5747.01 of the Revised Code for a taxable year	291
shall indicate on the taxpayer's return the north American	292
industry classification system code of each business or	293
professional activity from which the taxpayer's business income	294
was derived. The tax commissioner shall provide space on the	295
return for this purpose and shall prescribe, by rule adopted in	296
accordance with Chapter 119. of the Revised Code, the manner by	297
which such a taxpayer shall determine the taxpayer's proper	298
classification codes and business or professional activities	299
from which the taxpayer derives business income.	300
(M) The tax commissioner may adopt rules to administer	301
this section.	302
Sec. 5747.72. (A) As used in this section, "firearms	303
safety storage unit" means a safe, case, lock box, or other	304
device that is designed to be or can be used to store a firearm	305
and that is designed to be unlocked only by means of a key,	306
combination, biometric identifier, or other similar means.	307
(B) There is hereby allowed a nonrefundable credit against	308
a taxpayer's aggregate tax liability under section 5747.02 of	309
the Revised Code for amounts spent by the taxpayer during the	310
tayahlo yoar to purchaso firoarms safety storago units. The	311

amount of the credit shall equal twenty per cent of the purchase	312
<pre>price of each firearms safety storage unit, but the amount of</pre>	313
the credit claimed by a taxpayer under this section for any	314
taxable year shall not exceed four hundred dollars. The taxpayer	315
shall claim the credit in the order required under section	316
5747.98 of the Revised Code.	317
The tax commissioner may request that a taxpayer furnish a	318
sales receipt or any other information necessary to support a	319
claim for credit under this section, and no credit shall be	320
allowed unless the requested information is provided.	321
Sec. 5747.98. (A) To provide a uniform procedure for	322
calculating a taxpayer's aggregate tax liability under section	323
5747.02 of the Revised Code, a taxpayer shall claim any credits	324
to which the taxpayer is entitled in the following order:	325
Either the retirement income credit under division (B) of	326
section 5747.055 of the Revised Code or the lump sum retirement	327
income credits under divisions (C), (D), and (E) of that	328
section;	329
Either the senior citizen credit under division (F) of	330
section 5747.055 of the Revised Code or the lump sum	331
distribution credit under division (G) of that section;	332
The dependent care credit under section 5747.054 of the	333
Revised Code;	334
The credit for displaced workers who pay for job training	335
under section 5747.27 of the Revised Code;	336
The campaign contribution credit under section 5747.29 of	337
the Revised Code;	338
The twenty-dollar personal exemption credit under section	330

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5747.022 of the Revised Code;	340
The joint filing credit under division (G) of section 5747.05 of the Revised Code;	341 342
The earned income credit under section 5747.71 of the Revised Code;	343 344
The credit for firearms safety storage unit purchases under section 5747.72 of the Revised Code;	345 346
The credit for adoption of a minor child under section 5747.37 of the Revised Code;	347 348
The nonrefundable job retention credit under division (B) of section 5747.058 of the Revised Code;	349 350
The enterprise zone credit under section 5709.66 of the Revised Code;	351 352
The credit for purchases of qualifying grape production property under section 5747.28 of the Revised Code;	353 354
The small business investment credit under section 5747.81 of the Revised Code;	355 356
The nonrefundable lead abatement credit under section 5747.26 of the Revised Code;	357 358
The opportunity zone investment credit under section 122.84 of the Revised Code;	359 360
The enterprise zone credits under section 5709.65 of the Revised Code;	361 362
The research and development credit under section 5747.331 of the Revised Code;	363 364
The credit for rehabilitating a historic building under	365

section 5747.76 of the Revised Code;	366
The nonresident credit under division (A) of section 5747.05 of the Revised Code;	367 368
The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code;	369 370
The refundable motion picture and broadway theatrical production credit under section 5747.66 of the Revised Code;	371 372
The refundable jobs creation credit or job retention credit under division (A) of section 5747.058 of the Revised Code;	373 374 375
The refundable credit for taxes paid by a qualifying entity granted under section 5747.059 of the Revised Code;	376 377
The refundable credits for taxes paid by a qualifying pass-through entity granted under division (I) of section 5747.08 of the Revised Code;	378 379 380
The refundable credit under section 5747.80 of the Revised Code for losses on loans made to the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code;	381 382 383
The refundable credit for rehabilitating a historic building under section 5747.76 of the Revised Code.	384 385
(B) For any credit, except the refundable credits enumerated in this section and the credit granted under division (H) of section 5747.08 of the Revised Code, the amount of the	386 387 388
credit for a taxable year shall not exceed the taxpayer's aggregate amount of tax due under section 5747.02 of the Revised	389 390
Code, after allowing for any other credit that precedes it in the order required under this section. Any excess amount of a particular credit may be carried forward if authorized under the	391 392 393

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section creating that credit. Nothing in this chapter shall be	394
construed to allow a taxpayer to claim, directly or indirectly,	395
a credit more than once for a taxable year.	396
Section 2. That existing sections 5747.08 and 5747.98 of	397
the Revised Code are hereby repealed.	398
Section 3. The amendment or enactment by this act of	399
sections 5747.08, 5747.72, and 5747.98 of the Revised Code	400
applies to taxable years beginning on or after January 1, 2022.	401
Section 4. Pursuant to division (G) of section 5703.95 of	402
the Revised Code, which states that any bill introduced in the	403
House of Representatives or the Senate that proposes to enact or	404
modify one or more tax expenditures should include a statement	405
explaining the objectives of the tax expenditure or its	406
modification and the sponsor's intent in proposing the tax	407
expenditure or its modification:	408
The objective of this act is to help ensure the safety of	409
all Ohioans by increasing the usage of firearms safety storage	410
units. Law abiding citizens should want to use every safety	411
measure available in being a responsible gun owner.	412
Section 5. This act shall be known as the Child Access	413
Prevention Tax Credit Act.	414