



Rep. Scott Wiggam
77th Ohio House District

Chair Peterson, Vice Chair Thomas, Ranking Member Humphrey, and members of the House Government Oversight Committee, thank you for the opportunity to provide sponsor testimony on House Bill 551.

This bill would prohibit persons who are unlawfully in the United States from knowingly acquiring, having, carrying, or using any firearms or dangerous ordinances. A person found in violation of this law would be guilty of having weapons while under a disability, which is a felony of the third degree.

While the U.S. Supreme Court has been clear that the Second Amendment protects an American *citizen's* right to possess a firearm, a question exists as to whether this protection extends to *noncitizens* – including *illegal aliens*.

At the center of the debate is 18 U.S.C. § 922(g)(5), which generally prohibits an individual from possessing a firearm while illegally or unlawfully in the United States. Notably, some states have enacted similar prohibitions in state code, like the one proposed in House Bill 551. Currently, a three-way federal circuit court split currently exists on the question of whether the federal prohibition in 922(g)(5) and state counterparts violate the Second Amendment:

1. The Fifth and Eighth Circuits held that “the people” in the Second Amendment does not include illegal aliens, and consequently, no Second Amendment protection exists;
2. The Second, Ninth, and Tenth Circuits *assumed*, without deciding, that the Second Amendment extends to illegal aliens; and

3. The Seventh Circuit held that noncitizens – including illegal aliens – are included within the scope of “the people” in the Second Amendment, and consequently, that Second Amendment protections apply to that population.

Although the Supreme Court’s 2022 ruling in *New York State Rifle & Pistol Association v. Bruen* articulated a novel two-step, textual-historical framework for analyzing Second Amendment challenges, it appears the decision did not resolve the circuit court split. Just last month, Northern District of Illinois Judge Sharon Johnson Coleman applied *Bruen* to a federal firearms case concerning the Constitutionality of the prohibition in 922(g)(5), ultimately finding that the Supreme Court’s framework and ruling in *Bruen* did not conflict with the Seventh Circuit’s previous analysis or holding that the federal prohibition on illegal aliens possessing firearms is unconstitutional as applied.

It remains unclear what affect *Bruen* will have on the other circuit court decisions. Importantly, the Sixth Circuit has yet to weigh in. Where uncertainty exists, House Bill 551 creates parity between Ohio law and existing federal law, and the legislation makes it unquestionably clear where our state stands on this critical issue.