

AN ACT

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

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That section 9.68 be amended and sections 1349.84, 1349.85, and 1349.86 of the Revised Code be enacted 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 provided by the United States Constitution, Ohio Constitution, state law, or federal law, a person, without further license, permission, restriction, delay, or process, including by any ordinance, rule, regulation, resolution, practice, or other action or any threat of citation, prosecution, or other legal process, may own, possess, purchase, acquire, transport, store, carry, sell, transfer, manufacture, or keep any firearm, part of a firearm, its components, and its ammunition, and any knife, without being required to have firearm liability insurance, and without being required to pay a fee for the possession of a firearm, part of a firearm, its components, its ammunition, or a knife. Any such further license, permission, restriction, delay, or process interferes with the fundamental individual right described in this division and unduly inhibits law-abiding people from protecting themselves, their families, and others from intruders and attackers and from other legitimate uses of constitutionally protected arms, including hunting and sporting activities, and the state by this section preempts, supersedes, and declares null and void any such further license, permission, restriction, delay, or process.

(B) A person, group, or entity adversely affected by any manner of ordinance, rule, regulation, resolution, practice, or other action enacted or enforced by a political subdivision in conflict with division (A) of this section may bring a civil action against the political subdivision seeking damages from the political subdivision, declaratory relief, injunctive relief, or a combination

of those remedies. Any damages awarded shall be awarded against, and paid by, the political subdivision. In addition to any actual damages awarded against the political subdivision and other relief provided with respect to such an action, the court shall award reasonable expenses to any person, group, or entity that brings the action, to be paid by the political subdivision, if either of the following applies:

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

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

(C) As used in this section:

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

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

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

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

(5) "Arms" includes firearms and knives.

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

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

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

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

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

(A) "Ammunition" has the same meaning as in section 2305.401 of the Revised Code and includes any ammunition component.

(B) "Assign" or "assignment" refers to a financial institution's policy, process, or practice that labels, links, or otherwise associates a firearms code with a merchant or a payment card transaction in a manner that allows the financial institution or any other entity facilitating or processing the payment card transaction to identify whether a merchant is a firearms retailer or

whether a transaction involves the sale of firearms or ammunition.

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

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

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

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

(G) "Firearms code" means a merchant category code approved by the international organization for standardization or an equivalent successor organization and specifically assigned to a firearms retailer.

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

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

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

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

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

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

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

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

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

(2) If requested by the customer;

(3) If necessary due to fraud controls;

(4) For the purpose of merchant category exclusions offered by a financial institution for the purpose of expenditure control or corporate card control.

(D) Nothing in this section limits the authority of a financial institution to negotiate with

responsible parties or otherwise impairs a financial institution's actions related to any of the following:

(1) Dispute processing;

(2) Fraud risk or credit management or other controls in the ordinary course of business operations;

(3) Protecting against illegal activities, breach, or cyber risks;

(4) Restricting the use or availability of a firearms code in this state.

Sec. 1349.86. (A)(1) The attorney general shall investigate reasonable allegations that a person or entity, including a government entity, has violated section 1349.85 of the Revised Code and, upon finding a violation, provide written notice to the person or entity believed to have committed the violation. The person or entity shall cease the violation within thirty days after receiving notice from the attorney general under this section.

(2) The attorney general may administer oaths, subpoena witnesses, adduce evidence, and require the production of relevant matter for the purposes of an investigation under this section.

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

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

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

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

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

(c) Records identifying any persons whose payment card transactions were declined by a financial institution or an agent of a financial institution, as prohibited by division (B)(2) of section 1349.85 of the Revised Code;

(d) Records identifying a financial institution or an agent of a financial institution alleged to have engaged in conduct prohibited by section 1349.85 of the Revised Code, other than records of an action or court order under division (B) of this section.

(6) No person shall release or otherwise publicly disseminate records described in division (A)(5) of this section unless required to do so pursuant to a court order.

(B)(1) If a person or entity does not cease the violation within thirty days after receiving notice from the attorney general under this section, the attorney general shall file an action in the court of common pleas of any county in this state against that person or entity to seek an injunction.

(2) If the court finds that the person or entity violated section 1349.85 of the Revised Code and has not ceased the activity constituting the violation, the court shall enjoin the person or entity from continuing such activity and may award any other relief as the court considers appropriate, including destruction of any records kept in violation of section 1349.85 of the Revised Code.

(3) If a person or entity purposely fails to comply with an injunction issued under division (B)(2) of this section after thirty days of being served with the injunction, the attorney general, upon petition to the court, shall seek to impose on that person or entity a civil fine in an amount not to exceed one thousand dollars per violation. In assessing such a civil fine, the court shall consider factors, including the financial resources of the violator and the harm or risk of harm to the rights under the Second Amendment to the United States Constitution and the Ohio Constitution, Article I, Section 4 resulting from the violation.

(4) Any order assessing a civil fine under division (B)(3) of this section shall be stayed pending appeal of the order.

(C) The attorney general has exclusive authority to enforce section 1349.85 of the Revised Code. The remedies set forth in this section are the exclusive remedies for any violation of that section.

(D) It shall be a defense to a proceeding initiated pursuant to this section that a firearms code was required to be disclosed or assigned by law.

SECTION 2. That existing section 9.68 of the Revised Code is hereby repealed.

SECTION 3. The enactment of sections 1349.84, 1349.85, and 1349.86 of the Revised Code by this act shall be known as the Second Amendment Financial Privacy Act.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

Am. S. B. No. 58

135th G.A.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ____ day of _____, A. D. 20 ____.

Secretary of State.

File No. _____ Effective Date _____