



Ohio Legislative Service Commission

Bill Analysis

Andrea Holmes

H.B. 16

131st General Assembly
(As Introduced)

Reps. Reece, Antonio, Ashford, Boyce, Boyd, Celebrezze, Craig, Fedor, Howse, Kuhns, Lepore-Hagan, Sheehy, Strahorn, Sykes

BILL SUMMARY

- Prohibits any person, for commercial purposes, from knowingly selling an imitation firearm in this state on or after January 1, 2016, subject to certain exceptions.
- Prohibits any person, on or after January 1, 2016, from knowingly changing or altering any markings or bands that are required by any Ohio or federal law or regulation for any imitation firearm in a way that makes the imitation firearm look more like a firearm, subject to certain exceptions.
- Prohibits any person, on or after January 1, 2016, from knowingly adding to any firearm any markings or bands that are required by Ohio or federal law or regulation for any imitation firearm in a way that makes the firearm look more like an imitation firearm.
- Prohibits any person from knowingly openly displaying or exposing any imitation firearm in a public place on or after January 1, 2016, subject to certain exceptions.
- Requires any imitation firearm manufactured after July 1, 2015, to be accompanied by a conspicuous advisory in writing as part of the packaging that the product may be mistaken for a firearm; that altering the required markings is dangerous and may be a crime; and that brandishing the product in public may cause confusion and may be a crime.

CONTENT AND OPERATION

Commercial sale of an illegal imitation firearm

Prohibition

The bill prohibits any person, for commercial purposes, from knowingly selling an imitation firearm in this state on or after January 1, 2016. Whoever violates this prohibition is guilty of "commercial sale of an illegal imitation firearm," a first degree misdemeanor.¹

Devices exempt from the prohibition

This prohibition does not apply to the sale of any of the following:²

- A nonfiring collector's replica that is historically significant and is offered for sale in conjunction with a wall plaque or presentation case;
- A BB device that is a spot marker gun that expels a projectile that is greater than 10mm caliber;
- A BB device that expels a projectile, such as a BB or pellet, that is other than 6mm or 8mm caliber;
- A BB device that is an airsoft gun that expels a projectile, such as a BB or pellet, that is 6mm or 8mm caliber, if the device contains the blaze orange ring on the barrel required by federal law, has a trigger guard that has fluorescent coloration over the entire guard, and meets either of the following:
 - If configured as a handgun, there is a two centimeter wide adhesive band around the circumference of the protruding pistol grip that has fluorescent coloration and the adhesive band is applied in a manner not intended for removal and is in place on the airsoft gun prior to sale to a customer;
 - If configured as a rifle or long gun, there is a two centimeter wide adhesive band with fluorescent coloring, applied in a manner not intended for removal and is in place on the airsoft gun prior to sale to a customer, around the circumference of any two or more of the

¹ R.C. 2923.52(A) and (B).

² R.C. 2923.52(C).



protruding pistol grip, the buttstock, or a protruding ammunition magazine or clip.

- A device the entire exterior surface of which is white, bright red, bright orange, bright yellow, bright green, bright blue, bright pink, or bright purple, either singly or as the predominant color in combination with other colors in any pattern;
- A device that is entirely constructed of transparent or translucent materials that permits unmistakable observation of the device's complete contents.

Exemptions for imitation firearms sold for a particular purpose

The prohibition against selling an imitation firearm does not apply to a sale made for any of the following purposes:³

- Solely for export in interstate or foreign commerce;
- Solely for lawful use in any theatrical production, including any motion picture, video, television, or stage production;
- For use in a certified or regulated sporting event or competition;
- For use in any military or civil defense activity or ceremonial activity;
- For any public display authorized by a school.

Alteration of an imitation firearm

The bill prohibits any person, on or after January 1, 2016, from knowingly changing, altering, removing, or obliterating any coloration, markings, or bands that are required by any applicable law or regulation of this state or the United States for any imitation firearm in a way that makes the imitation firearm or device look more like a firearm. Whoever violates this prohibition is guilty of "alteration of an imitation firearm," a first degree misdemeanor.⁴

³ R.C. 2923.52(D).

⁴ R.C. 2923.53(A) and (C)(1).

This prohibition does not apply to a manufacturer, importer, or distributor of imitation firearms, or a lawful use of an imitation firearm in any theatrical production, including any motion picture, video, television, or stage production.⁵

Disguising a firearm as an imitation firearm

The bill prohibits any person, on or after January 1, 2016, from knowingly adding to any firearm any coloration, markings, or bands that are required by any Ohio or federal law or regulation for any imitation firearm in a way that makes the firearm look more like an imitation firearm. Whoever violates this prohibition is guilty of "disguising a firearm as an imitation firearm," a first degree misdemeanor.⁶

Illegal public display of an imitation firearm

The bill prohibits any person from knowingly openly displaying or exposing any imitation firearm in a public place on or after January 1, 2016. Whoever violates this prohibition is guilty of "illegal public display of an imitation firearm," a first degree misdemeanor.⁷

This prohibition does not apply in any of the following circumstances:⁸

- The imitation firearm is packaged or concealed so that it is not subject to public viewing.
- The imitation firearm is displayed or exposed in the course of commerce, including a commercial film or video production, or for service, repair, or restoration of the imitation firearm.
- The imitation firearm is used in a theatrical production, including any motion picture, video, television, or stage production.
- The imitation firearm is used in conjunction with a certified or regulated sporting event or competition.
- The imitation firearm is used in conjunction with lawful hunting or a lawful pest control activity.

⁵ R.C. 2923.53(D).

⁶ R.C. 2923.53(B) and (C)(2).

⁷ R.C. 2923.54(A) and (B).

⁸ R.C. 2923.54(C).

- The imitation firearm is used or possessed at a certified or regulated public or private shooting range.
- The imitation firearm is used at a fair, exhibition, exposition, or other similar activity for which a permit has been obtained from a local or state government.
- The imitation firearm is used in a military, civil defense, or civic activity, including a flag ceremony, color guard, parade, award presentation, historical reenactment, or memorial.
- The imitation firearm is used for a public display authorized by a school or a display that is part of a museum collection.
- The imitation firearm is used in a parade, ceremony, or other similar activity for which a permit has been obtained from a local or state government.
- The imitation firearm is displayed on a wall plaque or in a presentation case.
- The imitation firearm is being used in an area where the discharge of a firearm is lawful.
- The entire exterior surface of the imitation firearm is white, bright red, bright orange, bright yellow, bright green, bright blue, bright pink, or bright purple, either singly or as the predominant color in combination with other colors in any pattern, or the entire device is constructed of transparent or translucent material that permits unmistakable observation of the device's complete contents. To satisfy this requirement, the entire surface must be colored or transparent or translucent, and merely having an orange tip as provided in federal law and regulations does not satisfy the requirement.

Imitation firearm warnings

Required warning

Any imitation firearm manufactured after July 1, 2015, must be accompanied, at the time of offer for commercial sale in Ohio, by a conspicuous advisory in writing as part of the packaging of the imitation firearm. The conspicuous advisory may be, but is

not required to be, affixed to the imitation firearm, and must convey the following information:⁹

- The product may be mistaken for a firearm by law enforcement officers or others.
- Altering the coloration or markings required by state or federal law or regulations so as to make the product look more like a firearm is dangerous and may be a crime.
- Brandishing or displaying the product in public may cause confusion and may be a crime.

Penalties for failure to include the required warning

A manufacturer, importer, or distributor that knowingly fails to include the required packaging warnings is guilty of "failure to provide imitation firearm warnings," a misdemeanor, and is subject to the following fines:¹⁰

- Unless another penalty applies, a fine of not more than \$1,000.
- If the offender once previously has been convicted of the offense, a fine of not more than \$5,000.
- If the offender two or more times previously has been convicted of the offense, a fine of not more than \$10,000.

Definitions

As used in the bill:¹¹

"**BB device**" means any instrument that expels a projectile, such as a BB or a pellet, through the force of air pressure, gas pressure, or spring action, including any airsoft gun and any spot marker or paintball gun.

"**Imitation firearm**" means any BB device, replica of a firearm, or other device that is so substantially similar in coloration and overall appearance to an existing firearm as to lead a reasonable person to perceive that the device is a firearm. "Imitation firearm" does not include any toy gun unless the toy gun is a BB device.

⁹ R.C. 2923.55(A) and (B).

¹⁰ R.C. 2923.55(C) and (D).

¹¹ R.C. 2923.51.

"**Public place**" means an area open to the public, including any of the following: a street, alley, sidewalk, driveway, or parking lot; a bridge; a plaza or park; a front yard; a motor vehicle, whether moving or not; a building open to the general public, including one that serves food or drink or that provides entertainment; a doorway or entrance to a building or dwelling; a school operated by a board of education or a community school; any premises owned or leased by a public or private college, university, or other institution of higher education.

"**Firearm**" and "**handgun**" have the same meanings as in the Weapons Control Law.

Except as used in the definition of "public place," above, "**school**" has the same meaning as in the Drug Offense Law.

HISTORY

ACTION	DATE
Introduced	01-28-15

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