

As Introduced

125th General Assembly
Regular Session
2003-2004

S. B. No. 170

Senators Fingerhut, Fedor, Hagan, Mallory, Miller, Prentiss, Roberts

A BILL

To amend section 2923.11 and to enact sections 1
2923.191 and 5503.13 of the Revised Code to 2
prohibit the manufacture, possession, purchase, 3
sale, transfer, or offer to sell any assault 4
weapon and certain other related conduct. 5

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

Section 1. That section 2923.11 be amended and sections 6
2923.191 and 5503.13 of the Revised Code be enacted to read as 7
follows: 8

Sec. 2923.11. As used in sections 2923.11 to 2923.24 of the 9
Revised Code: 10

(A) "Deadly weapon" means any instrument, device, or thing 11
capable of inflicting death, and designed or specially adapted for 12
use as a weapon, or possessed, carried, or used as a weapon. 13

(B)(1) "Firearm" means any deadly weapon capable of expelling 14
or propelling one or more projectiles by the action of an 15
explosive or combustible propellant. "Firearm" includes an 16
unloaded firearm, and any firearm that is inoperable but that can 17
readily be rendered operable. 18

(2) When determining whether a firearm is capable of 19

expelling or propelling one or more projectiles by the action of 20
an explosive or combustibile propellant, the trier of fact may rely 21
upon circumstantial evidence, including, but not limited to, the 22
representations and actions of the individual exercising control 23
over the firearm. 24

(C) "Handgun" means any firearm designed to be fired while 25
being held in one hand. 26

(D) "Semi-automatic firearm" means any firearm designed or 27
specially adapted to fire a single cartridge and automatically 28
chamber a succeeding cartridge ready to fire, with a single 29
function of the trigger. 30

(E) "Automatic firearm" means any firearm designed or 31
specially adapted to fire a succession of cartridges with a single 32
function of the trigger. "Automatic firearm" also means any 33
semi-automatic firearm designed or specially adapted to fire more 34
than thirty-one cartridges without reloading, other than a firearm 35
chambering only .22 caliber short, long, or long-rifle cartridges. 36

(F) "Sawed-off firearm" means a shotgun with a barrel less 37
than eighteen inches long, or a rifle with a barrel less than 38
sixteen inches long, or a shotgun or rifle less than twenty-six 39
inches long overall. 40

(G) "Zip-gun" means any of the following: 41

(1) Any firearm of crude and extemporized manufacture; 42

(2) Any device, including without limitation a starter's 43
pistol, that is not designed as a firearm, but that is specially 44
adapted for use as a firearm; 45

(3) Any industrial tool, signalling device, or safety device, 46
that is not designed as a firearm, but that as designed is capable 47
of use as such, when possessed, carried, or used as a firearm. 48

(H) "Explosive device" means any device designed or specially 49

adapted to cause physical harm to persons or property by means of 50
an explosion, and consisting of an explosive substance or agency 51
and a means to detonate it. "Explosive device" includes without 52
limitation any bomb, any explosive demolition device, any blasting 53
cap or detonator containing an explosive charge, and any pressure 54
vessel that has been knowingly tampered with or arranged so as to 55
explode. 56

(I) "Incendiary device" means any firebomb, and any device 57
designed or specially adapted to cause physical harm to persons or 58
property by means of fire, and consisting of an incendiary 59
substance or agency and a means to ignite it. 60

(J) "Ballistic knife" means a knife with a detachable blade 61
that is propelled by a spring-operated mechanism. 62

(K) "Dangerous ordnance" means any of the following, except 63
as provided in division (L) of this section: 64

(1) Any automatic or sawed-off firearm, zip-gun, or ballistic 65
knife; 66

(2) Any explosive device or incendiary device; 67

(3) Nitroglycerin, nitrocellulose, nitrostarch, PETN, 68
cyclonite, TNT, picric acid, and other high explosives; amatol, 69
tritonol, tetrytol, pentolite, pecretol, cyclotol, and other high 70
explosive compositions; plastic explosives; dynamite, blasting 71
gelatin, gelatin dynamite, sensitized ammonium nitrate, 72
liquid-oxygen blasting explosives, blasting powder, and other 73
blasting agents; and any other explosive substance having 74
sufficient brisance or power to be particularly suitable for use 75
as a military explosive, or for use in mining, quarrying, 76
excavating, or demolitions; 77

(4) Any firearm, rocket launcher, mortar, artillery piece, 78
grenade, mine, bomb, torpedo, or similar weapon, designed and 79
manufactured for military purposes, and the ammunition for that 80

weapon;	81
(5) Any firearm muffler or silencer;	82
(6) Any combination of parts that is intended by the owner for use in converting any firearm or other device into a dangerous ordnance.	83 84 85
(L) "Dangerous ordnance" does not include any of the following:	86 87
(1) Any firearm, including a military weapon and the ammunition for that weapon, and regardless of its actual age, that employs a percussion cap or other obsolete ignition system, or that is designed and safe for use only with black powder;	88 89 90 91
(2) Any pistol, rifle, or shotgun, designed or suitable for sporting purposes, including a military weapon as issued or as modified, and the ammunition for that weapon, unless the firearm is an automatic or sawed-off firearm;	92 93 94 95
(3) Any cannon or other artillery piece that, regardless of its actual age, is of a type in accepted use prior to 1887, has no mechanical, hydraulic, pneumatic, or other system for absorbing recoil and returning the tube into battery without displacing the carriage, and is designed and safe for use only with black powder;	96 97 98 99 100
(4) Black powder, priming quills, and percussion caps possessed and lawfully used to fire a cannon of a type defined in division (L)(3) of this section during displays, celebrations, organized matches or shoots, and target practice, and smokeless and black powder, primers, and percussion caps possessed and lawfully used as a propellant or ignition device in small-arms or small-arms ammunition;	101 102 103 104 105 106 107
(5) Dangerous ordnance that is inoperable or inert and cannot readily be rendered operable or activated, and that is kept as a trophy, souvenir, curio, or museum piece.	108 109 110

(6) Any device that is expressly excepted from the definition 111
of a destructive device pursuant to the "Gun Control Act of 1968," 112
82 Stat. 1213, 18 U.S.C. 921(a)(4), as amended, and regulations 113
issued under that act. 114

(M) "Explosive" means any chemical compound, mixture, or 115
device, the primary or common purpose of which is to function by 116
explosion. "Explosive" includes all materials that have been 117
classified as class A, class B, or class C explosives by the 118
United States department of transportation in its regulations and 119
includes, but is not limited to, dynamite, black powder, pellet 120
powders, initiating explosives, blasting caps, electric blasting 121
caps, safety fuses, fuse igniters, squibs, cordeau detonant fuses, 122
instantaneous fuses, and igniter cords and igniters. "Explosive" 123
does not include "fireworks," as defined in section 3743.01 of the 124
Revised Code, or any explosive that is not subject to regulation 125
under the rules of the fire marshal adopted pursuant to section 126
3737.82 of the Revised Code. 127

(N) "Assault weapon" means any of the following: 128

(1) Any semi-automatic firearm that is a handgun, any 129
semi-automatic firearm that is a rifle, or any pump-action rifle,
if the handgun or rifle is capable of accepting a detachable 130
magazine and also possesses any one or more of the following: 131
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(a) If the firearm is a rifle, a pistol grip located to the 133
rear of the trigger; 134

(b) If the firearm is a rifle, a stock in any configuration, 135
including, but not limited to, a thumbhole stock, a folding stock,
or a telescoping stock, that allows the bearer of the firearm to 136
grasp the firearm with the trigger hand in such a manner that the 137
web of the trigger hand, between the thumb and the forefinger, can 138
be placed below the top of the external portion of the trigger 139
during firing; 140
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<u>(c) If the firearm is a handgun, a shoulder stock of any type</u>	142
<u>or configuration, including, but not limited to, a folding stock</u>	143
<u>or a telescoping stock;</u>	144
<u>(d) A barrel shroud;</u>	145
<u>(e) A muzzle brake;</u>	146
<u>(f) A muzzle compensator;</u>	147
<u>(g) Any feature capable of functioning as a protruding grip</u>	148
<u>that can be held by the hand that is not the trigger hand.</u>	149
<u>(2) Any semi-automatic firearm that is a handgun and that is</u>	150
<u>capable of accepting a detachable magazine at any location outside</u>	151
<u>of the pistol grip;</u>	152
<u>(3) Any semi-automatic firearm that is a handgun or that is a</u>	153
<u>center-fire rifle, if the handgun or rifle has a fixed magazine</u>	154
<u>that has the capacity to accept more than ten rounds of</u>	155
<u>ammunition;</u>	156
<u>(4) Any shotgun capable of accepting a detachable magazine;</u>	157
<u>(5) Any shotgun with a revolving cylinder;</u>	158
<u>(6) Any assault weapon conversion kit or other combination of</u>	159
<u>parts from which an assault weapon of any type described in</u>	160
<u>division (N)(1), (2), (3), (4), or (5) of this section can be</u>	161
<u>assembled if the parts are in the possession or under the control</u>	162
<u>of any person.</u>	163
<u>(O) "Barrel shroud" means, except as otherwise provided in</u>	164
<u>this division, any covering, other than a slide, that is attached</u>	165
<u>to, or that substantially or completely encircles, the barrel of a</u>	166
<u>firearm and that allows the bearer of the firearm to hold the</u>	167
<u>barrel with the non-shooting hand while firing the firearm,</u>	168
<u>without burning that hand. "Barrel shroud" does not include an</u>	169
<u>extension of the stock along the bottom of the barrel that does</u>	170
<u>not substantially or completely encircle the barrel.</u>	171

(P) "Muzzle brake" means any device attached to the muzzle of a weapon that utilizes escaping gas to reduce recoil. 172
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(O) "Muzzle compensator" means any device attached to the muzzle of a weapon that utilizes escaping gas to control muzzle movement. 174
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(R) "Assault weapon conversion kit" means any kit or combination of parts that is designed and intended for use in converting a firearm into an assault weapon. 177
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(S) "Detachable magazine" means a magazine, the function of which is to deliver one or more ammunition cartridges into the firing chamber, that can be removed from the firearm without the use of any tool, including, but not limited to, a bullet or ammunition cartridge. 180
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(T) "Federally licensed firearms manufacturer or dealer" means an importer, manufacturer, or dealer having a license to deal in destructive devices or their ammunition, issued and in effect pursuant to the federal "Gun Control Act of 1968," 82 Stat. 1213, 18 U.S.C. 923 et seq., and any amendments or additions to that act or reenactments of that act. 185
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Sec. 2923.191. (A) No person shall manufacture, possess, purchase, sell, otherwise transfer, or offer to sell any assault weapon, subject to division (C) of this section. 191
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(B) No person shall possess or have under the person's control, at one time, subject to division (D) of this section, both of the following: 194
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(1) A semi-automatic firearm that is a handgun, a semi-automatic firearm that is a rifle, or a pump-action rifle, if the handgun or rifle is capable of accepting a detachable magazine; 197
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(2) Any magazine that is capable of being used with the 201

handgun or rifle described in division (B)(1) of this section and 202
that contains more than ten rounds of ammunition. 203

(C) Division (A) of this section does not apply to any of the 204
following: 205

(1) The possession of an unloaded assault weapon for the 206
purpose of permanently relinquishing it to a law enforcement 207
agency in this state pursuant to rules adopted for that purpose by 208
the superintendent of the state highway patrol under section 209
5503.13 of the Revised Code; 210

(2) The transfer of any assault weapon by a federally 211
licensed firearms manufacturer or dealer to a law enforcement 212
agency in this state for use by that agency or its employees for 213
law enforcement purposes; 214

(3) The possession of an assault weapon that was legally 215
possessed on the effective date of this section; 216

(4) The possession of an assault weapon that has been 217
permanently disabled so that it is incapable of discharging a 218
projectile. 219

(D) Division (B) of this section does not apply to any person 220
while the person is doing either of the following: 221

(1) Lawfully engaged in shooting while at a shooting range 222
that is operating in accordance with all applicable laws and 223
requirements and that has obtained any licenses, permits, and 224
insurance coverage required for that operation; 225

(2) Lawfully participating in a sporting event that is 226
officially sanctioned by a club or organization established in 227
whole or in part for the purpose of sponsoring sport shooting 228
events. 229

(E) Any assault weapon, the manufacture, possession, 230
purchase, sale, other transfer, or attempted sale of which is 231

prohibited under division (A) of this section, is a public 232
nuisance subject to abatement under Chapter 3767. of the Revised 233
Code. 234

(F) The law enforcement agency to which the possession of any 235
assault weapon is permanently relinquished pursuant to rules 236
adopted under section 5503.13 of the Revised Code as described in 237
division (C)(1) of this section shall destroy the assault weapon. 238

(G) Whoever violates division (A) or (B) of this section is 239
guilty of possessing or transferring illegal firearms. Except as 240
otherwise provided in this division, possessing or transferring 241
illegal firearms is a felony of the fifth degree. Possessing or 242
transferring illegal firearms is a felony of the third degree if 243
the offender previously has been convicted of or pleaded guilty to 244
a felony of the first or second degree and the offender committed 245
the violation of division (A) or (B) of this section within five 246
years of the date of the offender's release from imprisonment or 247
from post-release control that is imposed for the commission of 248
the felony of the first or second degree. 249

Sec. 5503.13. The superintendent of the state highway patrol 250
shall adopt rules that provide procedures and criteria pursuant to 251
which a person may permanently relinquish an unloaded assault 252
weapon to a law enforcement agency in this state, as described in 253
division (C)(1) of section 2923.191 of the Revised Code. 254

Section 2. That existing section 2923.11 of the Revised Code 255
is hereby repealed. 256