

**As Introduced**

**131st General Assembly**

**Regular Session**

**2015-2016**

**H. B. No. 78**

**Representative Patmon**

**Cosponsors: Representatives Curtin, Lepore-Hagan**

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**A BILL**

To enact section 2923.26 of the Revised Code to 1  
prohibit any transfer of a firearm from a person 2  
who is not a federally licensed firearms dealer 3  
to a person who is not a federally licensed 4  
firearms dealer unless the firearm is 5  
transferred through a federally licensed 6  
firearms dealer, through a state or local law 7  
enforcement agency, or pursuant to a specified 8  
exception; to require that background checks be 9  
conducted when a firearm is transferred through 10  
a federally licensed firearms dealer or through 11  
a state or local law enforcement agency; and to 12  
provide for recordkeeping with respect to 13  
information obtained pursuant to such a 14  
background check. 15

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

**Section 1.** That section 2923.26 of the Revised Code be 16  
enacted to read as follows: 17

**Sec. 2923.26.** (A) As used in this section: 18

(1) "Federally licensed firearms dealer" has the same meaning as in section 5502.63 of the Revised Code. 19  
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(2) "Unlicensed transferee" means a person who is not a federally licensed firearms dealer and who desires to receive a firearm from an unlicensed transferor. 21  
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(3) "Unlicensed transferor" means a person who is not a federally licensed firearms dealer and who desires to transfer a firearm to an unlicensed transferee. 24  
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(4) "Identification document" means a document made or issued by or under the authority of the United States government, this state, or any other state, a political subdivision of this state or any other state, a sponsoring entity of an event designated as a special event of national significance, a foreign government, a political subdivision of a foreign government, an international governmental organization, or an international quasi-governmental organization that, when completed with information concerning a particular individual, is of a type intended or commonly accepted for the purpose of identification of individuals. 27  
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(B) No federally licensed firearms dealer shall transfer a firearm to any person unless the federally licensed firearms dealer complies with the requirements of 18 U.S.C. section 922(t). 38  
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(C)(1) No unlicensed transferor shall transfer a firearm to an unlicensed transferee, unless both of the following apply with respect to the transfer of the firearm: 42  
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(a) The firearm is transferred through a federally licensed firearms dealer under division (E) of this section, through a law enforcement agency under division (F) of this 45  
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section, or in accordance with an exception described in 48  
division (G) of this section. 49

(b) The firearm is transferred in accordance with division 50  
(C) (2) of this section. 51

(2) Except as provided in division (G) of this section, an 52  
unlicensed transferor shall not do any of the following: 53

(a) Subject to division (C) (2) (b) of this section, 54  
transfer a firearm to an unlicensed transferee until the 55  
federally licensed firearms dealer through which the transfer is 56  
made under division (E) of this section gives a notice described 57  
in division (E) (4) (a) of this section, or the law enforcement 58  
agency through which the transfer is made under division (F) of 59  
this section gives a notice described in division (F) (4) (a) of 60  
this section; 61

(b) Transfer a firearm to an unlicensed transferee if the 62  
federally licensed firearms dealer through which the transfer is 63  
made under division (E) of this section gives a notice described 64  
in division (E) (4) (b) of this section, or the law enforcement 65  
agency through which the transfer is made under division (F) of 66  
this section gives a notice described in division (F) (4) (b) of 67  
this section. 68

(3) Nothing in this section permits or authorizes the 69  
attorney general of this state or the attorney general of the 70  
United States to impose recordkeeping requirements on any 71  
unlicensed transferor. 72

(D) (1) No unlicensed transferee shall receive a firearm 73  
from an unlicensed transferor, unless both of the following 74  
apply with respect to the transfer of the firearm: 75

(a) The firearm is transferred through a federally 76

licensed firearms dealer under division (E) of this section, 77  
through a law enforcement agency under division (F) of this 78  
section, or in accordance with an exception described in 79  
division (G) of this section. 80

(b) The firearm is transferred in accordance with division 81  
(D) (2) of this section. 82

(2) Except as provided in division (G) of this section, an 83  
unlicensed transferee shall not do any of the following: 84

(a) Subject to division (D) (2) (b) of this section, receive 85  
a firearm from an unlicensed transferor until the federally 86  
licensed firearms dealer through which the transfer is made 87  
under division (E) of this section gives a notice described in 88  
division (E) (4) (a) of this section, or the law enforcement 89  
agency through which the transfer is made under division (F) of 90  
this section gives a notice described in division (F) (4) (a) of 91  
this section; 92

(b) Receive a firearm from another unlicensed transferor 93  
if the federally licensed firearms dealer through which the 94  
transfer is made under division (E) of this section gives a 95  
notice described in division (E) (4) (b) of this section, or the 96  
law enforcement agency through which the transfer is made under 97  
division (F) of this section gives a notice described in 98  
division (F) (4) (b) of this section. 99

(E) A federally licensed firearms dealer who agrees to 100  
assist in the transfer of a firearm between an unlicensed 101  
transferor and an unlicensed transferee under division (C) or 102  
(D) of this section shall do all of the following: 103

(1) Enter any information about the firearm that the 104  
attorney general of this state or the attorney general of the 105

United States may require by rule or regulation into a separate 106  
bound record; 107

(2) Record the transfer on a form prescribed by the 108  
attorney general of this state pursuant to division (J) of this 109  
section; 110

(3) Comply with 18 U.S.C. section 922(t) as if 111  
transferring the firearm from the inventory of the federally 112  
licensed firearms dealer to the unlicensed transferee, except 113  
that a federally licensed firearms dealer assisting in the 114  
transfer of a firearm under this division shall not be required 115  
to comply again with the requirements of that provision in 116  
delivering the firearm to the unlicensed transferee; 117

(4) Notify the unlicensed transferor and unlicensed 118  
transferee of both of the following: 119

(a) Of compliance with 18 U.S.C. section 922(t) as 120  
provided in division (E) (3) of this section; 121

(b) If the transfer is subject to 18 U.S.C. section 922(t) 122  
(1), of receipt by the federally licensed firearms dealer of a 123  
notice from the national instant criminal background check 124  
system that the transfer would violate 18 U.S.C. section 922 or 125  
the law of this state. 126

(5) Not later than thirty-one days after the date on which 127  
the transfer occurs, submit to the attorney general of the 128  
United States a report of the transfer on a form prescribed by 129  
the attorney general of this state pursuant to division (J) of 130  
this section that does not include the name of or other 131  
identifying information relating to the unlicensed transferor or 132  
unlicensed transferee; 133

(6) If the federally licensed firearms dealer assists an 134

unlicensed transferor in transferring at the same time or during 135  
any five consecutive business days two or more pistols or 136  
revolvers, or any combination of pistols and revolvers totaling 137  
two or more, to the same unlicensed transferee, in addition to 138  
the reports required under division (E) (5) of this section, 139  
prepare a report of the multiple transfers on a form prescribed 140  
by the attorney general of this state pursuant to division (J) 141  
of this section and submit the report not later than the close 142  
of business on the date on which the transfer requiring the 143  
report under this division occurs to the office specified on the 144  
form described in division (E) (5) of this section and to the 145  
bureau of criminal identification and investigation; 146

(7) Retain a record of the transfer as part of the 147  
permanent business records of the federally licensed firearms 148  
dealer. 149

(F) A law enforcement agency of this state or of a 150  
political subdivision of this state that agrees to assist an 151  
unlicensed transferor in carrying out the responsibilities of 152  
the unlicensed transferor under division (C) of this section 153  
with respect to the transfer of a firearm shall do all of the 154  
following: 155

(1) Contact the national instant criminal background check 156  
system under 18 U.S.C. section 922(t) and either receive an 157  
identification number as described in 18 U.S.C. section 922(t) 158  
(1) (B) (i) or wait the period described in 18 U.S.C. section 159  
922(t) (1) (B) (ii); 160

(2) Conduct any other checks that the agency considers 161  
appropriate to determine whether the receipt or possession of 162  
the firearm by the unlicensed transferee would violate 18 U.S.C. 163  
section 922 or the law of this state; 164

(3) Verify the identity of the unlicensed transferee by 165  
either examining a valid identification document of the 166  
unlicensed transferee containing a photograph of the unlicensed 167  
transferee or confirming that the unlicensed transferor has 168  
examined such a valid identification document; 169

(4) Notify the unlicensed transferor and transferee of all 170  
of the following: 171

(a) The compliance by the law enforcement agency with the 172  
requirements under divisions (F) (1), (2), and (3) of this 173  
section; 174

(b) Any receipt by the law enforcement agency of a 175  
notification from the national instant criminal background check 176  
system or other information that the transfer would violate 18 177  
U.S.C. section 922 or would violate the law of this state. 178

(5) Not later than thirty-one days after the date on which 179  
the transfer occurs, submit to the attorney general of the 180  
United States a report of the transfer on a form prescribed by 181  
the attorney general of this state pursuant to division (J) of 182  
this section that does not include the name of or other 183  
identifying information relating to the unlicensed transferor or 184  
unlicensed transferee; 185

(6) If the law enforcement agency assists an unlicensed 186  
transferor in transferring at the same time or during any five 187  
consecutive business days two or more pistols or revolvers, or 188  
any combination of pistols and revolvers totaling two or more, 189  
to the same unlicensed transferee, in addition to the reports 190  
required under division (F) (5) of this section, prepare a report 191  
of the multiple transfers on a form prescribed by the attorney 192  
general of this state pursuant to division (J) of this section 193

and submit the report not later than twenty-four hours after the 194  
transfer requiring the report under this division occurs to the 195  
office specified on the form described in division (E) (5) of 196  
this section and to the bureau of criminal identification and 197  
investigation; 198

(7) Maintain records of the transfer at any place, and in 199  
any form, that the attorney general of this state or the 200  
attorney general of the United States may prescribe. 201

(G) Unless prohibited by any other provision of law, 202  
divisions (C) and (D) of this section shall not apply to any 203  
transfer of a firearm between an unlicensed transferor and 204  
unlicensed transferee if any of the following apply with respect 205  
to the transfer: 206

(1) The transfer is a bona fide gift between immediate 207  
family members, including spouses, parents, children, siblings, 208  
grandparents, and grandchildren. 209

(2) The transfer occurs by operation of law, or because of 210  
the death of another person for whom the unlicensed transferor 211  
is an executor or administrator of an estate or a trustee of a 212  
trust created in a will. 213

(3) The transfer is temporary and occurs while in the home 214  
of the unlicensed transferee, the unlicensed transferee is not 215  
otherwise prohibited from possessing firearms, and the 216  
unlicensed transferee believes that possession of the firearm is 217  
necessary to prevent imminent death or great bodily harm to the 218  
unlicensed transferee. 219

(4) The transfer is approved by the attorney general of 220  
the United States under section 5812 of the Internal Revenue 221  
Code of 1986. 222



(5) The transfer is a temporary transfer of possession 223  
without transfer of title that takes place in any of the 224  
following circumstances: 225

(a) At a shooting range located in or on premises owned or 226  
occupied by a duly incorporated organization organized for 227  
conservation purposes or to foster proficiency in firearms; 228

(b) At a target firearm shooting competition under the 229  
auspices of or approved by an agency of this state or a 230  
nonprofit organization; 231

(c) While hunting, fishing, or trapping, if the activity 232  
is legal in all places where the unlicensed transferee possesses 233  
the firearm, and the unlicensed transferee holds any required 234  
license or permit. 235

(6) The transfer is to an authorized representative of a 236  
law enforcement agency of any municipal corporation, any county, 237  
this state, or the federal government for exclusive use by that 238  
governmental entity and, prior to the transfer, written 239  
authorization from the head of the agency authorizing the 240  
transaction is presented to the person from whom the transfer is 241  
being made. The proper written authorization shall be verifiable 242  
written certification from the head of the agency by which the 243  
transferee is employed, identifying the employee as an 244  
individual authorized to conduct the transaction, and 245  
authorizing the transaction for the exclusive use of the agency 246  
by which that person is employed. 247

(7) The transfer is a loan of the firearm by an authorized 248  
law enforcement representative of a municipal corporation, a 249  
county, this state, or the federal government, the loan is made 250  
to a peace officer who is employed by that governmental entity 251

and authorized to carry a firearm, and the loan is made for the 252  
carrying and use of that firearm by that peace officer in the 253  
course and scope of the officer's duties. 254

(8) The transfer is by a law enforcement agency to a peace 255  
officer. 256

(9) The transfer is by a law enforcement agency to a 257  
retiring peace officer of that agency who is authorized to carry 258  
a firearm. 259

(10) The transfer is to an authorized representative of a 260  
municipal corporation, a county, this state, or the federal 261  
government and is for the governmental entity, and the entity is 262  
acquiring the firearm as part of an authorized, voluntary 263  
program in which the entity is buying or receiving weapons from 264  
private individuals. 265

(11) The transfer is by an authorized law enforcement 266  
representative of a municipal corporation, a county, this state, 267  
or the federal government to any public or private nonprofit 268  
historical society, museum, or institutional collection, if all 269  
of the following conditions are met: 270

(a) The entity receiving the firearm is open to the 271  
public. 272

(b) The firearm prior to delivery is deactivated or 273  
rendered inoperable. 274

(c) The firearm is not of a type prohibited by provision 275  
of law from being transferred to the public at large. 276

(d) Prior to delivery, the entity receiving the firearm 277  
submits a written statement to the law enforcement 278  
representative stating that the firearm will not be restored to 279

operating condition and will either remain with that entity, or 280  
if subsequently disposed of, will be transferred in accordance 281  
with the applicable provisions of law. 282

(12) The transfer is by any person other than a 283  
representative of an authorized law enforcement agency to any 284  
public or private nonprofit historical society, museum, or 285  
institutional collection, if all of the conditions set forth in 286  
divisions (G) (11) (a) to (d) of this section are met. 287

(13) The transfer is delivery of a firearm to a gunsmith 288  
for service or repair, is the return of the firearm to its owner 289  
by the gunsmith, or is the delivery of a firearm by a gunsmith 290  
to a federally licensed firearms dealer for service or repair or 291  
the return of the firearm to the gunsmith. 292

(14) The transfer is made by a person who resides in this 293  
state, is made to a person who resides outside this state and is 294  
a federally licensed firearms dealer, and is in accordance with 295  
federal firearms law. 296

(15) The transfer is of any unloaded firearm to a 297  
wholesaler as merchandise in the wholesaler's business by a 298  
manufacturer or importer licensed to engage in that business 299  
pursuant to federal firearms law or by another wholesaler and is 300  
made in accordance with federal firearms law. 301

(H) A federally licensed firearms dealer or law 302  
enforcement agency that processes the transfer of a firearm 303  
under this section may assess and collect a fee, in an amount 304  
not to exceed ten dollars, with respect to each firearm transfer 305  
processed. 306

(I) Nothing in division (F) (7) of this section shall be 307  
construed to authorize the attorney general of this state or the 308

attorney general of the United States to inspect records 309  
described in that division or to require that the records be 310  
transferred to a facility owned, managed, or controlled by this 311  
state or the United States. 312

(J) The attorney general of this state by rule shall 313  
prescribe the forms to be used for keeping the records and 314  
making the reports required under this section. If the attorney 315  
general of the United States adopts forms to be used for keeping 316  
similar records and making similar reports that may be required 317  
under federal law, the attorney general of this state shall 318  
prescribe those forms to be used for keeping the records and 319  
making the reports required under this section. 320

(K) Whoever violates division (B), (C), or (D) of this 321  
section is guilty of illegal transfer of a firearm. Except as 322  
otherwise provided in this division, illegal transfer of a 323  
firearm is a misdemeanor of the first degree. If the offender 324  
previously has been convicted of or pleaded guilty to a 325  
violation of this section, illegal transfer of a firearm is a 326  
felony of the fifth degree. 327