

**As Introduced**

**135th General Assembly**

**Regular Session**

**2023-2024**

**H. B. No. 346**

**Representative Dell'Aquila**

**Cosponsors: Representatives Somani, Mohamed, Brewer, Brennan, Russo,  
McNally, Forhan, Miller, A., Grim**

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**A BILL**

To amend section 2923.11 and to enact section 1  
2923.191 of the Revised Code to create the 2  
offense of unlawful manufacture, purchase, or 3  
sale of an auto sear. 4

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

**Section 1.** That section 2923.11 be amended and section 5  
2923.191 of the Revised Code be enacted to read as follows: 6

**Sec. 2923.11.** As used in sections 2923.11 to 2923.24 of 7  
the Revised Code: 8

(A) "Deadly weapon" means any instrument, device, or thing 9  
capable of inflicting death, and designed or specially adapted 10  
for use as a weapon, or possessed, carried, or used as a weapon. 11

(B) (1) "Firearm" means any deadly weapon capable of 12  
expelling or propelling one or more projectiles by the action of 13  
an explosive or combustible propellant. "Firearm" includes an 14  
unloaded firearm, and any firearm that is inoperable but that 15  
can readily be rendered operable. 16

(2) When determining whether a firearm is capable of  
expelling or propelling one or more projectiles by the action of  
an explosive or combustible propellant, the trier of fact may  
rely upon circumstantial evidence, including, but not limited  
to, the representations and actions of the individual exercising  
control over the firearm.

(C) "Handgun" means any of the following:

(1) Any firearm that has a short stock and is designed to  
be held and fired by the use of a single hand;

(2) Any combination of parts from which a firearm of a  
type described in division (C) (1) of this section can be  
assembled.

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

(E) "Automatic firearm" means any firearm designed or  
specially adapted to fire a succession of cartridges with a  
single function of the trigger.

(F) "Sawed-off firearm" means a shotgun with a barrel less  
than eighteen inches long, or a rifle with a barrel less than  
sixteen inches long, or a shotgun or rifle less than twenty-six  
inches long overall. "Sawed-off firearm" does not include any  
firearm with an overall length of at least twenty-six inches  
that is approved for sale by the federal bureau of alcohol,  
tobacco, firearms, and explosives under the "Gun Control Act of  
1968," 82 Stat. 1213, 18 U.S.C. 921(a) (3), but that is found by  
the bureau not to be regulated under the "National Firearms  
Act," 68A Stat. 725 (1934), 26 U.S.C. 5845(a).

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|------------------------------------------------------------------|----|
| (G) "Zip-gun" means any of the following:                        | 46 |
| (1) Any firearm of crude and extemporized manufacture;           | 47 |
| (2) Any device, including without limitation a starter's         | 48 |
| pistol, that is not designed as a firearm, but that is specially | 49 |
| adapted for use as a firearm;                                    | 50 |
| (3) Any industrial tool, signalling device, or safety            | 51 |
| device, that is not designed as a firearm, but that as designed  | 52 |
| is capable of use as such, when possessed, carried, or used as a | 53 |
| firearm.                                                         | 54 |
| (H) "Explosive device" means any device designed or              | 55 |
| specially adapted to cause physical harm to persons or property  | 56 |
| by means of an explosion, and consisting of an explosive         | 57 |
| substance or agency and a means to detonate it. "Explosive       | 58 |
| device" includes without limitation any bomb, any explosive      | 59 |
| demolition device, any blasting cap or detonator containing an   | 60 |
| explosive charge, and any pressure vessel that has been          | 61 |
| knowingly tampered with or arranged so as to explode.            | 62 |
| (I) "Incendiary device" means any firebomb, and any device       | 63 |
| designed or specially adapted to cause physical harm to persons  | 64 |
| or property by means of fire, and consisting of an incendiary    | 65 |
| substance or agency and a means to ignite it.                    | 66 |
| (J) "Ballistic knife" means a knife with a detachable            | 67 |
| blade that is propelled by a spring-operated mechanism.          | 68 |
| (K) "Dangerous ordnance" means any of the following,             | 69 |
| except as provided in division (L) of this section:              | 70 |
| (1) Any automatic or sawed-off firearm, zip-gun, or              | 71 |
| ballistic knife;                                                 | 72 |
| (2) Any explosive device or incendiary device;                   | 73 |

(3) Nitroglycerin, nitrocellulose, nitrostarch, PETN, 74  
cyclonite, TNT, picric acid, and other high explosives; amatol, 75  
tritonite, tetrytol, pentolite, peccretol, cyclotol, and other 76  
high explosive compositions; plastic explosives; dynamite, 77  
blasting gelatin, gelatin dynamite, sensitized ammonium nitrate, 78  
liquid-oxygen blasting explosives, blasting powder, and other 79  
blasting agents; and any other explosive substance having 80  
sufficient brisance or power to be particularly suitable for use 81  
as a military explosive, or for use in mining, quarrying, 82  
excavating, or demolitions; 83

(4) Any firearm, rocket launcher, mortar, artillery piece, 84  
grenade, mine, bomb, torpedo, or similar weapon, designed and 85  
manufactured for military purposes, and the ammunition for that 86  
weapon; 87

(5) Any firearm muffler or suppressor; 88

(6) Any part or combination of parts that is intended by 89  
the owner for use in converting any firearm or other device into 90  
a dangerous ordnance, including an auto sear. 91

(L) "Dangerous ordnance" does not include any of the 92  
following: 93

(1) Any firearm, including a military weapon and the 94  
ammunition for that weapon, and regardless of its actual age, 95  
that employs a percussion cap or other obsolete ignition system, 96  
or that is designed and safe for use only with black powder; 97

(2) Any pistol, rifle, or shotgun, designed or suitable 98  
for sporting purposes, including a military weapon as issued or 99  
as modified, and the ammunition for that weapon, unless the 100  
firearm is an automatic or sawed-off firearm; 101

(3) Any cannon or other artillery piece that, regardless 102

of its actual age, is of a type in accepted use prior to 1887, 103  
has no mechanical, hydraulic, pneumatic, or other system for 104  
absorbing recoil and returning the tube into battery without 105  
displacing the carriage, and is designed and safe for use only 106  
with black powder; 107

(4) Black powder, priming quills, and percussion caps 108  
possessed and lawfully used to fire a cannon of a type defined 109  
in division (L) (3) of this section during displays, 110  
celebrations, organized matches or shoots, and target practice, 111  
and smokeless and black powder, primers, and percussion caps 112  
possessed and lawfully used as a propellant or ignition device 113  
in small-arms or small-arms ammunition; 114

(5) Dangerous ordnance that is inoperable or inert and 115  
cannot readily be rendered operable or activated, and that is 116  
kept as a trophy, souvenir, curio, or museum piece; 117

(6) Any device that is expressly excepted from the 118  
definition of a destructive device pursuant to the "Gun Control 119  
Act of 1968," 82 Stat. 1213, 18 U.S.C. 921(a) (4), as amended, 120  
and regulations issued under that act; 121

(7) Any firearm with an overall length of at least twenty- 122  
six inches that is approved for sale by the federal bureau of 123  
alcohol, tobacco, firearms, and explosives under the "Gun 124  
Control Act of 1968," 82 Stat. 1213, 18 U.S.C. 921(a) (3), but 125  
that is found by the bureau not to be regulated under the 126  
"National Firearms Act," 68A Stat. 725 (1934), 26 U.S.C. 127  
5845(a). 128

(M) "Explosive" means any chemical compound, mixture, or 129  
device, the primary or common purpose of which is to function by 130  
explosion. "Explosive" includes all materials that have been 131

classified as division 1.1, division 1.2, division 1.3, or 132  
division 1.4 explosives by the United States department of 133  
transportation in its regulations and includes, but is not 134  
limited to, dynamite, black powder, pellet powders, initiating 135  
explosives, blasting caps, electric blasting caps, safety fuses, 136  
fuse igniters, squibs, cordeau detonant fuses, instantaneous 137  
fuses, and igniter cords and igniters. "Explosive" does not 138  
include "fireworks," as defined in section 3743.01 of the 139  
Revised Code, or any substance or material otherwise meeting the 140  
definition of explosive set forth in this section that is 141  
manufactured, sold, possessed, transported, stored, or used in 142  
any activity described in section 3743.80 of the Revised Code, 143  
provided the activity is conducted in accordance with all 144  
applicable laws, rules, and regulations, including, but not 145  
limited to, the provisions of section 3743.80 of the Revised 146  
Code and the rules of the fire marshal adopted pursuant to 147  
section 3737.82 of the Revised Code. 148

(N) (1) "Concealed handgun license" or "license to carry a 149  
concealed handgun" means, subject to division (N) (2) of this 150  
section, a license or temporary emergency license to carry a 151  
concealed handgun issued under section 2923.125 or 2923.1213 of 152  
the Revised Code or a license to carry a concealed handgun 153  
issued by another state with which the attorney general has 154  
entered into a reciprocity agreement under section 109.69 of the 155  
Revised Code. 156

(2) A reference in any provision of the Revised Code to a 157  
concealed handgun license issued under section 2923.125 of the 158  
Revised Code or a license to carry a concealed handgun issued 159  
under section 2923.125 of the Revised Code means only a license 160  
of the type that is specified in that section. A reference in 161  
any provision of the Revised Code to a concealed handgun license 162

issued under section 2923.1213 of the Revised Code, a license to 163  
carry a concealed handgun issued under section 2923.1213 of the 164  
Revised Code, or a license to carry a concealed handgun on a 165  
temporary emergency basis means only a license of the type that 166  
is specified in section 2923.1213 of the Revised Code. A 167  
reference in any provision of the Revised Code to a concealed 168  
handgun license issued by another state or a license to carry a 169  
concealed handgun issued by another state means only a license 170  
issued by another state with which the attorney general has 171  
entered into a reciprocity agreement under section 109.69 of the 172  
Revised Code. 173

(O) "Valid concealed handgun license" or "valid license to 174  
carry a concealed handgun" means a concealed handgun license 175  
that is currently valid, that is not under a suspension under 176  
division (A)(1) of section 2923.128 of the Revised Code, under 177  
section 2923.1213 of the Revised Code, or under a suspension 178  
provision of the state other than this state in which the 179  
license was issued, and that has not been revoked under division 180  
(B)(1) of section 2923.128 of the Revised Code, under section 181  
2923.1213 of the Revised Code, or under a revocation provision 182  
of the state other than this state in which the license was 183  
issued. 184

(P) "Misdemeanor punishable by imprisonment for a term 185  
exceeding one year" does not include any of the following: 186

(1) Any federal or state offense pertaining to antitrust 187  
violations, unfair trade practices, restraints of trade, or 188  
other similar offenses relating to the regulation of business 189  
practices; 190

(2) Any misdemeanor offense punishable by a term of 191  
imprisonment of two years or less. 192

(Q) "Alien registration number" means the number issued by  
the United States citizenship and immigration services agency  
that is located on the alien's permanent resident card and may  
also be commonly referred to as the "USCIS number" or the "alien  
number."

(R) "Active duty" has the same meaning as defined in 10  
U.S.C. 101.

(S) "Auto sear" means any part or combination of parts  
that is designed to convert a weapon to automatically discharge  
more than one round without manual reloading, by a single  
function of the trigger.

Sec. 2923.191. (A) No person shall knowingly manufacture,  
purchase, sell, transfer, distribute, or import an auto sear.

(B) Division (A) of this section does not apply to any of  
the following:

(1) Officers, agents, or employees of this or any other  
state or the United States, members of the armed forces of the  
United States or the organized militia of this or any other  
state, and law enforcement officers, to the extent that any such  
person is authorized to manufacture, purchase, sell, transfer,  
distribute, or import auto sears and is acting within the scope  
of the person's duties;

(2) Importers, manufacturers, and dealers having a license  
to deal in firearms or their ammunition, issued and in effect  
pursuant to the "Gun Control Act of 1968," 18 U.S.C. 923, as  
amended or reenacted, with respect to auto sears lawfully  
manufactured, purchased, sold, transferred, distributed, or  
imported under the laws of this state and applicable federal  
law;

(3) Carriers, warehouses, and others engaged in the 222  
business of transporting or storing goods for hire, with respect 223  
to auto sears lawfully transported or stored in the usual course 224  
of their business and in compliance with the laws of this state 225  
and applicable federal law; 226

(4) The holders of a license or temporary permit issued 227  
and in effect pursuant to section 2923.18 of the Revised Code, 228  
with respect to auto sears lawfully purchased, sold, 229  
transferred, distributed, or imported for the purposes and in 230  
the manner specified in such license or permit. 231

(C) Whoever violates division (A) of this section is 232  
guilty of unlawful manufacture, purchase, or sale of an auto 233  
sear, a felony of the fifth degree. 234

**Section 2.** That existing section 2923.11 of the Revised 235  
Code is hereby repealed. 236