



Legislation Details (With Text)

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Title: To amend sections 2323.51, 2323.52, 2323.53, and 2323.54 of the Columbus City Codes to clarify the language regarding the definition of an imitation firearm and the provision and display of those devices; and to declare an emergency.

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Indexes:

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Date	Ver.	Action By	Action	Result
6/7/2018	1	CITY CLERK	Attest	
6/6/2018	1	MAYOR	Signed	
6/4/2018	1	COUNCIL PRESIDENT	Signed	
6/4/2018	1	Columbus City Council	Approved	Pass

The purpose of this ordinance is to amend sections of the Columbus City Codes to clarify the language regarding imitation firearms, including references to federal laws and regulations on this topic, to make it abundantly clear that the only items being regulated are those which truly look like a real gun. The changes also make it clear that provision of an imitation firearm to a minor in conjunction with a theatrical production or at a paintball facility is not prohibited. The ordinance adds an exception to the provisions regarding furnishing of imitation firearms to minors when it is done in conjunction with a theatrical production or at a shooting range/paintball facility or when the imitation firearms are a wholly bright color, transparent, or translucent. The ordinance also incorporates the federal code reference into the provisions describing alteration of an imitation firearm and includes an exemption from the unlawful display of an imitation firearm in public where the imitation firearm does have the federal markings and those markings have not been concealed. Finally, the ordinance includes within the exemptions for use in public, use at a paintball facility or in conjunction with law enforcement training.

Emergency action is requested to allow this ordinance to become effective in conjunction with Ord. 1117-2018 regarding imitation firearms.

To amend sections 2323.51, 2323.52, 2323.53, and 2323.54 of the Columbus City Codes to clarify the language regarding the definition of an imitation firearm and the provision and display of those devices; and to declare an emergency.

WHEREAS, imitation firearms are virtually indistinguishable from real weapons and can be marketed toward children; and

WHEREAS, it is the intention of City Council to specifically regulate imitation firearms that look like a real firearm

WHEREAS, markings and identifiers that indicate a firearm is a replica are easily removed or altered to make the

imitation firearm look real; and

WHEREAS, at least 70 individuals brandishing imitation firearms were shot and killed by law enforcement nationwide in 2016 and 2017; now, therefore,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS:

SECTION 1. That section 2323.51 of the Columbus City Codes is hereby amended to read as follows:

2323.51- Definitions - Imitation Firearms.

As used in sections 2323.51 to 2323.54:

(A) "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 guns unless specifically exempted under division (B).

(B) "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 BB device, replica of a firearm, or other device is a firearm. "Imitation firearm" does not include a nonfiring, collector replica of an antique firearm developed prior to 1898. As used in Sections 2323.52 and 2323.54, "imitation firearm" does not include the following:

(1) ~~A nonfiring collector's replica that is historically significant, and is offered for sale in conjunction with a wall plaque or presentation case;~~

(2) ~~A device where the entire exterior surface of the device 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 where the entire device is constructed of transparent or translucent materials which permits unmistakable observation of the device's complete contents.~~

(C) "Public place" means an area open to the public, including any of the following:

(1) A street, alley, sidewalk, driveway, or parking lot;

(2) A bridge;

(3) A plaza or park;

(4) A front yard;

(5) A motor vehicle, as defined in section 4511.01 of the Revised Code, whether moving or not;

(6) A building open to the general public, including one that serves food or drink or that provides entertainment;

(7) A doorway or entrance to a building or dwelling;

(8) A school operated by a board of education or a community school established under Chapter 3314. of the Revised Code;

(9) Any premises owned or leased by a public or private college, university, or other institution of higher education.

SECTION 2. That section 2323.52 of the Columbus City Codes is hereby amended as follows:

2323.52 - Unlawful sale of imitation firearms to minors.

(A) [Reserved]

(B) No person shall knowingly give, sell, or otherwise furnish an imitation firearm to any person under the age of eighteen (18).

(C) Whoever violates division (B) of this section is guilty of unlawful sale of an imitation firearm, a misdemeanor of the first degree.

(D) This section does not apply to provision of an imitation firearm to a minor in conjunction with the lawful use of an imitation firearm:

(1) In any theatrical production including any motion picture, video, television, or stage production; or

(2) At a certified or regulated public or private shooting range or at a paintball facility.

(E) This section does not apply where the entire exterior surface of the device is white, bright red, bright orange, bright yellow, bright green, bright blue, bright pink, bright purple, or any other color designated by the US Department of Commerce in regulations promulgated pursuant to 15 USCA Section 5001 either singly or as the predominant color in combination with other colors in any pattern, or where the entire device is constructed of transparent or translucent materials which permits unmistakable observation of the device's complete contents.

SECTION 3. That section 2323.53 of the Columbus City Codes is hereby amended, to read as follows:

2323.53 - Alteration of an imitation firearm; Possession of an altered imitation firearm.

(A) No person shall knowingly change, alter, remove, or obliterate any coloration, markings, or bands that are required by ~~any applicable law or regulation of this state or the United States~~ 15 USCA Section 5001 and accompanying federal regulations for any imitation firearm in a way that makes the imitation firearm ~~or device~~ look more like a firearm.

(B) No person shall knowingly possess an imitation firearm on which the blaze orange tip ~~or other approved marking as described in required by Title 15, Section 5001 of the United States Code~~ 15 USCA Section 5001 and accompanying federal regulations ~~or any other colors or markings which may be required by city ordinance or state law~~ have has been removed or obscured.

(C) Whoever violates division (A) of this section is guilty of alteration of an imitation firearm, a misdemeanor of the first degree. Whoever violates division (B) of this section is guilty of possession of an altered imitation firearm, a misdemeanor of the first degree.

(D) This section does not apply to a lawful use of an imitation firearm in any theatrical production, including any motion picture, video, television, or stage production.

SECTION 4. That section 2323.54 of the Columbus City Codes is hereby amended to read as follows:

2323.54 - Illegal display/possession of an imitation firearm in a school safety zone.

(A) No person shall knowingly openly display or expose any imitation firearm in a public place.

(B) No person shall knowingly possess an imitation firearm in a school safety zone if the person indicates that the person possesses the object and that it is a firearm, or the person knowingly displays or brandishes the object and indicates that it

is a firearm.

(C) Whoever violates this division (A) of this section is guilty of illegal public display of an imitation firearm, a misdemeanor of the first degree. Whoever violates division (B) of this section is guilty of illegal possession of an imitation firearm in a school safety zone, a misdemeanor of the first degree.

(D) (1) Division (A) of this section does not apply in any of the following circumstances:

(a) The imitation firearm has a blaze orange tip or other approved marking as described in 15 USCA Section 5001 and accompanying federal regulations and the blaze orange tip or marking is not concealed.

(b) 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.

~~(b)~~ (c) The imitation firearm is used in a theatrical production, including any motion picture, video, television, or stage production.

~~(e)~~ (d) The imitation firearm is used in conjunction with a certified or regulated sporting event or competition.

~~(d)~~ (e) The imitation firearm is used in conjunction with lawful hunting or a lawful pest control activity.

~~(e)~~ (f) The imitation firearm is used or possessed at a certified or regulated public or private shooting range or at a paintball facility.

~~(f)~~ (g) The imitation firearm is used at a fair, exhibition, exposition, or other similar activity for which a permit has been obtained from the City.

~~(g)~~ (h) 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.

~~(h)~~ (i) The imitation firearm is used for a public display authorized by a school or a display that is part of a museum collection.

~~(i)~~ (j) The imitation firearm is used in a parade, ceremony, or other similar activity for which a permit has been obtained from the City.

~~(j)~~ (k) The imitation firearm is displayed on a wall plaque or in a presentation case.

~~(k)~~ (l) The imitation firearm is being used in an area where the discharge of a firearm is lawful or in conjunction with law enforcement training.

(2) Division (B) of this section does not apply to:

(a) Premises upon which home schooling is conducted;

(b) A school administrator, teacher, or employee who possesses an imitation firearm for legitimate school purposes during the course of employment;

(c) A student who uses an imitation firearm under the direction of a school administrator, teacher, or employee; or

(d) Any other person who, with the express prior approval of a school administrator, possesses an imitation firearm for a legitimate purpose, including the use of the object in a ceremonial activity, a play, reenactment, or other dramatic presentation, school safety training, or a ROTC activity or another similar use of the object.

(E) If the offender previously has been convicted of a violation of division (B) of this section, illegal possession of an imitation firearm in a school safety zone is a felony to be prosecuted under state law.

(F) (1) In addition to any other penalty imposed upon a person who is convicted of or pleads guilty to a violation of division (B) of this section and subject to division (F)(2) of this section, if the offender has not attained nineteen years of age, regardless of whether the offender is attending or is enrolled in a school operated by a board of education or for which the state board of education prescribes minimum standards under section 3301.07 of the Revised Code, the court shall impose upon the offender a class four suspension of the offender's probationary driver's license, restricted license, driver's license, commercial driver's license, temporary instruction permit, or probationary commercial driver's license that then is in effect from the range specified in division (A)(4) of section 4510.02 of the Revised Code and shall deny the offender the issuance of any permit or license of that type during the period of the suspension. If the offender is not a resident of this state, the court shall impose a class four suspension of the nonresident operating privilege of the offender from the range specified in division (A)(4) of section 4510.02 of the Revised Code.

(2) If the offender shows good cause why the court should not suspend one of the types of licenses, permits, or privileges specified in division (F)(1) of this section or deny the issuance of one of the temporary instruction permits specified in that division, the court in its discretion may choose not to impose the suspension, revocation, or denial required in that division, but the court, in its discretion, instead may require the offender to perform community service for a number of hours determined by the court.

SECTION 5. That existing sections 2323.51, 2323.52, 2323.53, and 2323.54 of the Columbus City Codes, as enacted by Ordinance No. 1117-2018, passed on 5/14/2018, are hereby repealed and replaced as provided herein.

SECTION 6. That for the reasons stated in the preamble hereto, which is hereby made a part hereof, this ordinance is hereby declared to be an emergency measure and shall take effect and be in force from and after its passage and approval by the Mayor, or ten days after passage if the Mayor neither approves nor vetoes the same.