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Via regular U.S. Mail and E-mail

Mr. Ben F.C. Wallace
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545 East Town St.
Columbus, Ohio 43215
bwallace@electionlawgroup.com

Re: Submitted Petition for a new Section 2923.26 to be added to Title XXIX of the Ohio Revised Code—"An Act to Close Loopholes in Background Checks on Gun Sales"

Dear Mr. Wallace,

On June 10, 2019, in accordance with the provisions of the Ohio Revised Code ("ORC") Section 3519.01(A), I received a written petition containing (1) a copy of a proposed statute, and (2) a summary of the same measure. One of my statutory duties as Attorney General is to send all of the part-petitions to the appropriate county boards of elections for signature verification. With all of the county boards of elections reporting back, at least 1,000 signatures have been verified.

It is also my statutory duty to determine whether the submitted summary is a "fair and truthful statement of the proposed law or constitutional amendment." ORC Section 3519.01(A). If I conclude that the summary is fair and truthful, I am to certify it as such within ten days of receipt of the petition. In this instance, the tenth day falls on Thursday, June 20, 2019.

The Ohio Supreme Court has defined "summary" relative to an initiated petition as "a short, concise summing up," which properly advises potential signers of a proposed measure's character "without the necessity of perusing [it] at length." *State ex rel. Hubbell v. Bettman*, 124 Ohio St. 24 (1931). After reviewing the submission, I have concluded that I am unable to certify its summary as a fair and truthful summing up of the proposed statute.

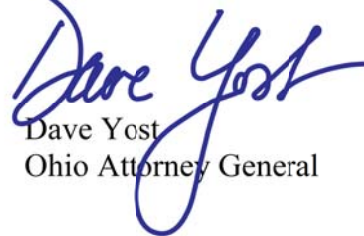
First, the summary does not accurately reflect the sales or transfers to which the proposed newly-enacted statute would apply. Specifically, the summary broadly states that "*all* sales or transfer of firearms be conditioned on the person receiving the firearm being subjected to a background check pursuant to federal law." Yet the language of the proposed statute only requires that a background check be conducted pursuant to federal law when the purchaser or transferee is a private person. And though the proposed statute differentiates between private individuals and federal firearms dealers, it does not impose any background check obligations upon a federal firearms dealer. Although there may be federal statutes or regulations that impose such requirements on a federal firearms dealer, the issue is that, as written, the proposed Ohio statute does not. Thus, it is inaccurate for the summary to state (as it does) that, if enacted, Section 2923.26 of the Ohio Revised Code would require that "all sales or transfers of firearms be

conditioned on the person receiving the firearm be subjected to a background check pursuant to federal law.”

Second, the summary fails to address the number and extent of exceptions that would apply to the proposed statute. That is, though the summary acknowledges that “the Act also provides exceptions to [the background check requirement] for certain types of transfers[,]” it fails to mention that there are actually nine listed exceptions, some having multiple sub-parts. The summary does nothing to explain—or even preview—the extent of any of these exceptions. Thus, upon reading the summary a signer would not know about, or even be on notice to look for, the number of firearm sales and transfers to which the statute would not apply “without the necessity of perusing [it] at length.” *See, Hubbell*, 124 Ohio St. 24. This omission could catch a signer particularly unaware given that the summary leads with the representation that “*all* sales or transfer of firearms [would] be conditioned on the person receiving the background check pursuant to federal law.” By the text of the proposed statute, there are over nine circumstances not previewed in the summary under which that statement is not true.

For these reasons, I am unable to certify the summary as a fair and truthful statement of the proposed statute. However, I must caution that this is not intended to be an exhaustive list of all defects in the submitted summary.

Yours,



Dave Yost
Ohio Attorney General