

AMENDED IN ASSEMBLY APRIL 30, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 851

Introduced by Assembly Member Briggs

February 22, 2001

An act to amend ~~Section~~ *Sections 12125, 12131, and 12131.5* of the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

AB 851, as amended, Briggs. Firearms: unsafe handguns.

Existing law, subject to exceptions, makes it a misdemeanor to sell, as specified, any unsafe handgun, as defined.

This bill would exempt from the application of those provisions, handguns owned by California residents, the manufacture of which ceased prior to January 1, 2001.

Existing law requires the Department of Justice to maintain a roster of handguns that are not unsafe, that therefore may be sold by dealers in this state, and authorizes imposition of a fee to, among other things, maintain that roster. A handgun may be excluded from the roster if the fee is not paid. Existing law also requires the testing of handguns, as specified, to determine if they are unsafe, as defined.

This bill would provide that where the fee has not been paid, the handgun would remain on the roster for one year prior to being excluded. This bill would also permit the department to retest up to 5 percent of the handguns listed on the roster to ensure compliance with the testing requirements for handguns, as specified.

Existing law provides that firearms that differ from firearms already listed on the roster in specified ways are deemed to comply with the

requirements regarding the testing of handguns pursuant to the unsafe handgun provisions.

This bill would also permit certain modifications to be made to handguns listed on the roster after they have been purchased, while still deeming the handguns to be in compliance with similar handguns listed in the roster.

~~Existing law regulates unsafe handguns, as defined, and specifies what constitutes a handgun that is not unsafe.~~

~~This bill would make a technical, nonsubstantive change to those provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. *Section 12125 of the Penal Code is amended to*
2 *read:*

3 12125. (a) Commencing January 1, 2001, any person in this
4 state who manufactures or causes to be manufactured, imports into
5 the state for sale, keeps for sale, offers or exposes for sale, gives,
6 or lends any unsafe handgun shall be punished by imprisonment
7 in a county jail not exceeding one year.

8 (b) This section shall not apply to any of the following:

9 (1) The manufacture in this state, or importation into this state,
10 of any prototype pistol, revolver, or other firearm capable of being
11 concealed upon the person when the manufacture or importation
12 is for the sole purpose of allowing an independent laboratory
13 certified by the Department of Justice pursuant to Section 12130
14 to conduct an independent test to determine whether that pistol,
15 revolver, or other firearm capable of being concealed upon the
16 person is prohibited by this chapter, and, if not, for the department
17 to add the firearm to the roster of pistols, revolvers, and other
18 firearms capable of being concealed upon the person that may be
19 sold in this state pursuant to Section 12131.

20 (2) The importation or lending of a pistol, revolver, or other
21 firearm capable of being concealed upon the person by employees
22 or authorized agents determining whether the weapon is
23 prohibited by this section.

24 (3) Firearms listed as curios or relics, as defined in Section
25 178.11 of Title 27 of the Code of Federal Regulations.



1 (4) The sale to, purchase by, or possession of any pistol,
2 revolver or other firearm capable of being concealed upon the
3 person by the Department of Justice, any police department, any
4 sheriff's official, any marshal's office, the Youth and Adult
5 Correctional Agency, the California Highway Patrol, any district
6 attorney's office, and the military or naval forces of this state or of
7 the United States for use in the discharge of their official duties.
8 Nor shall anything in this section prohibit the possession of any
9 pistol, revolver, or other firearm capable of being concealed upon
10 the person by sworn members of these agencies, whether the sworn
11 member is on or off duty, or an individual who is retired from
12 service with a law enforcement agency and who is not otherwise
13 prohibited from possessing a concealable firearm upon his or her
14 retirement.

15 (5) *Any handgun model owned by a California resident for*
16 *which manufacture had ceased prior to January 1, 2001.*

17 (c) Violations of subdivision (a) are cumulative with respect to
18 each handgun and shall not be construed as restricting the
19 application of any other law. However, an act or omission
20 punishable in different ways by this section and other provisions
21 of law shall not be punished under more than one provision, but
22 the penalty to be imposed shall be determined as set forth in
23 Section 654.

24 *SEC. 2. Section 12131 of the Penal Code is amended to read:*

25 12131. (a) On and after January 1, 2001, the Department of
26 Justice shall compile, publish, and thereafter maintain a roster
27 listing all of the pistols, revolvers, and other firearms capable of
28 being concealed upon the person that have been tested by a
29 certified testing laboratory, have been determined not to be unsafe
30 handguns, and may be sold in this state pursuant to this title. The
31 roster shall list, for each firearm, the manufacturer, model number,
32 and model name.

33 (b) (1) The department may charge every person in this state
34 who is licensed as a manufacturer of firearms pursuant to Chapter
35 44 (commencing with Section 921) of Title 18 of the United States
36 Code, and any person in this state who manufactures or causes to
37 be manufactured, imports into the state for sale, keeps for sale, or
38 offers or exposes for sale any pistol, revolver, or other firearm
39 capable of being concealed upon the person in this state, an annual
40 fee not exceeding the costs of preparing, publishing, and



1 maintaining the roster pursuant to subdivision (a) and the costs of
2 research and development, report analysis, firearms storage, and
3 other program infrastructure costs necessary to implement this
4 chapter.

5 (2) Any pistol, revolver, or other firearm capable of being
6 concealed upon the person that is manufactured by a manufacturer
7 who manufactures or causes to be manufactured, imports into the
8 state for sale, keeps for sale, or offers or exposes for sale any pistol,
9 revolver, or other firearm capable of being concealed upon the
10 person in this state, and who fails to pay any fee required pursuant
11 to paragraph (1), may be excluded from the roster, *provided*
12 *however, that any pistol, revolver, or other firearm capable of*
13 *being concealed upon the person for which the fee has not been*
14 *paid shall remain on the roster for one year before it is excluded*
15 *from the roster.*

16 (3) *The department may annually retest up to 5 percent of the*
17 *firearms listed on the roster to ensure compliance with the*
18 *requirements of this chapter.*

19 SEC. 3. Section 12131.5 of the Penal Code is amended to
20 read:

21 12131.5. (a) A firearm shall be deemed to satisfy the
22 requirements of subdivision (a) of Section 12131 if another
23 firearm made by the same manufacturer is already listed and the
24 unlisted firearm differs from the listed firearm only in one or more
25 of the following features:

26 (1) Finish, including, but not limited to, bluing,
27 chrome-plating, oiling, or engraving.

28 (2) The material from which the grips are made.

29 (3) The shape or texture of the grips, so long as the difference
30 in grip shape or texture does not in any way alter the dimensions,
31 material, linkage, or functioning of the magazine well, the barrel,
32 the chamber, or any of the components of the firing mechanism of
33 the firearm.

34 (4) Any other ~~purely cosmetic feature~~ *minor difference* that
35 does not in any way alter the dimensions, material, linkage, or
36 functioning of the magazine well, the barrel, the chamber, or any
37 of the components of the firing mechanism of the firearm.

38 (b) Every manufacturer seeking to have a firearm listed under
39 this section shall provide to the Department of Justice all of the
40 following:



- 1 (1) The model designation of the listed firearm.
- 2 (2) The model designation of each firearm that the
- 3 manufacturer seeks to have listed under this section.
- 4 (3) A statement, under oath, that each unlisted firearm for
- 5 which listing is sought differs from the listed firearm only in one
- 6 or more of the ways identified in subdivision (a) and is in all other
- 7 respects identical to the listed firearm.
- 8 (c) The department may, in its discretion and at any time,
- 9 require a manufacturer to provide to the department any model for
- 10 which listing is sought under this section, to determine whether the
- 11 model complies with the requirements of this section.
- 12 *(d) Gunsmiths and manufacturers may make minor*
- 13 *modifications consistent with service and repair, or with the minor*
- 14 *differences specified in this section to firearms that are listed on the*
- 15 *roster specified in Section 12131 subsequent to the retail purchase*
- 16 *of those firearms by an individual from a firearms dealer.*

