

## Senate Bill No. 1670

### CHAPTER 917

An act to amend Section 12088 of, to amend and repeal Section 12088.1 of, and to add Sections 12087.6 and 12088.15 to, the Penal Code, relating to firearm safety devices.

[Approved by Governor September 25, 2002. Filed with Secretary of State September 26, 2002.]

#### LEGISLATIVE COUNSEL'S DIGEST

SB 1670, Scott. Firearm safety devices.

Existing law requires all firearms sold or transferred by a firearms dealer, to be accompanied by a firearms safety device that is listed on the Department of Justice's roster of approved firearms safety devices, as specified. However, existing law exempts firearm sales and transfers from this requirement, if the seller or transferee proves ownership of a gun safe that meets specified standards, as provided.

This bill would define "firearms safety device," "gun safe," and "long-gun safe" for purposes of those provisions.

Existing law requires the Department of Justice to compile, publish, and maintain a roster listing all of the safety devices that have been tested by a certified testing laboratory, have been determined to meet the department's standards for firearms safety devices and may be sold in this state.

This bill would, in addition, authorize the department to randomly retest unused samples of firearm safety devices listed on the roster obtained from sources other than directly from the manufacturer to ensure compliance with the requirements established by the department.

This bill would additionally require the firearms safety device included with or accompanying the firearm be identified on the roster as being appropriate for that firearm by reference either to the manufacturer and model of firearm, or to the physical characteristics of the firearm that match those listed on the roster for use with the device.

Existing law requires the department to develop a minimum safety standard for gun safes.

This bill would require long-gun safes kept for commercial sale or commercially sold, as specified, that do not meet those requirements to carry a warning label, as specified.

The bill would also make a technical change by deleting a duplicate provision.

This bill would also provide that it would be unlawful to keep for commercial sale, offer or expose for commercial sale, commercially sell, or for any person to distribute as part of an organized firearm safety program, with or without consideration, any firearms safety device that is not listed on the roster maintained by the department, or that does not comply with the standards for firearms safety devices adopted by the department.

This bill would provide that no long-gun safe could be manufactured in this state for sale in this state that does not meet the minimum safety standards, unless the safe is labeled with a specified warning by the manufacturer.

This bill would further provide that if any person keeps for commercial sale, offers or exposes for commercial sale, or commercially sells a long-gun safe that does not meet the minimum safety standards, and the long-gun safe does not have the required warning, or the person removes the warning label, the person is in violation of certain provisions of the bill.

Violation of the provisions specifying the unlawful or prohibited acts described above would be punishable by a civil fine of up to \$500, and additionally, for a 2nd violation within 5 years of a previous offense by a civil fine of up to \$1,000, and if the violation is committed by a licensed firearms dealer, by a temporary ineligibility to sell firearms, as specified. A violation within 5 years of 2 or more previous offenses would be punishable by a civil fine of up to \$5,000, and in the case of a licensed firearms dealer, by permanent ineligibility to sell firearms, as specified.

This bill would also provide that the Attorney General, a district attorney, or a city attorney may bring a civil action for a violation of the provisions of the bill, as specified.

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

SECTION 1. Section 12087.6 is added to the Penal Code, to read: 12087.6. As used in this article:

(a) “Firearms safety device” means a device other than a gun safe that locks and is designed to prevent children and unauthorized users from firing a firearm. The device may be installed on a firearm, be incorporated into the design of the firearm, or prevent access to the firearm.

(b) “Gun safe” means a locking container that fully contains and secures one or more firearms, and that meets the standards for gun safes adopted pursuant to Section 12088.2.

(c) “Long-gun safe” means a locking container designed to fully contain and secure a rifle as defined in paragraph (20) of subdivision (c)



of Section 12020 or a shotgun as defined in paragraph (21) of subdivision (c) of Section 12020, that has a locking system consisting of either a mechanical combination lock or an electronic combination lock that has at least 1,000 possible unique combinations consisting of a minimum of three numbers, letters, or symbols per combination, and that is not listed on the roster maintained pursuant to subdivision (d) of Section 12088.

SEC. 2. Section 12088 of the Penal Code is amended to read:

12088. (a) The Department of Justice shall certify laboratories to verify compliance with standards for firearms safety devices set forth in Section 12088.2.

(b) The Department of Justice may charge any laboratory that is seeking certification to test firearms safety devices a fee not exceeding the costs of certification, including costs associated with the development and approval of regulations and standards pursuant to Section 12088.2.

(c) The certified laboratory shall, at the manufacturer's or dealer's expense, test the firearms safety device and submit a copy of the final test report directly to the Department of Justice along with the firearms safety device. The department shall notify the manufacturer or dealer of its receipt of the final test report and the department's determination as to whether the firearms safety device tested may be sold in this state.

(d) On and after July 1, 2001, the Department of Justice shall compile, publish, and thereafter maintain a roster listing all of the firearms safety devices that have been tested by a certified testing laboratory, have been determined to meet the department's standards for firearms safety devices and may be sold in this state.

(e) The roster shall list, for each firearms safety device, the manufacturer, model number, and model name.

(f) The department may randomly retest samples obtained from sources other than directly from the manufacturer of the firearms safety device listed on the roster to ensure compliance with the requirements of this article.

(g) Firearms safety devices used for random sample testing and obtained from sources other than the manufacturer shall be in new, unused condition, and still in the manufacturer's original and unopened package.

SEC. 3. Section 12088.1 of the Penal Code, as added by Section 1 of Chapter 246 of the Statutes of 1999, is amended to read:

12088.1. (a) All firearms sold or transferred in this state by a licensed firearms dealer, including private transfers through a dealer, and all firearms manufactured in this state, shall include or be accompanied by a firearms safety device that is listed on the Department of Justice's



roster of approved firearms safety devices and that is identified as appropriate for that firearm by reference to either the manufacturer and model of the firearm, or to the physical characteristics of the firearm that match those listed on the roster for use with the device.

(b) All firearms sold or transferred in this state by a licensed firearms dealer, including private transfers through a dealer, and all firearms manufactured in this state shall be accompanied with warning language or labels as described in Section 12088.3.

(c) (1) All long-gun safes commercially sold or transferred in this state, or manufactured in this state for sale in this state, that do not meet the standards for gun safes adopted pursuant to Section 12088.2 shall be accompanied by the following warning:

“WARNING: This gun safe does not meet the safety standards for gun safes specified in California Penal Code Section 12088.2. It does not satisfy the requirements of Penal Code Section 12088.1, which mandates that all firearms sold in California be accompanied by a firearms safety device or proof of ownership, as required by law, of a gun safe that meets the Section 12088.2 minimum safety standards developed by the California Attorney General.”

(2) This warning shall be conspicuously displayed in its entirety on the principal display panel of the gun safe’s package, on any descriptive materials that accompany the gun safe, and on a label affixed to the front of the gun safe.

(3) This warning shall be displayed in both English and Spanish in conspicuous and legible type in contrast by typography, layout, or color with other printed matter on the package or descriptive materials in a manner consistent with Part 1500.121 of Title 16 of the Code of Federal Regulations, or successor regulations thereto.

(d) The sale or transfer of a firearm shall be exempt from subdivision (a) if both of the following apply:

(1) The purchaser or transferee owns a gun safe that meets the standards set forth in Section 12088.2. Gun safes shall not be required to be tested, and therefore may meet the standards without appearing on the Department of Justice roster.

(2) The purchaser or transferee presents an original receipt for purchase of the gun safe, or other proof of purchase or ownership of the gun safe as authorized by the Attorney General, to the firearms dealer. The dealer shall maintain a copy of this receipt or proof of purchase with the dealers’ record of sales of firearms.

(e) The sale or transfer of a firearm shall be exempt from subdivision (a) if all of the following apply:



(1) The purchaser or transferee purchases an approved safety device no more than 30 days prior to the day the purchaser or transferee takes possession of the firearm.

(2) The purchaser or transferee presents the approved safety device to the firearms dealer when picking up the firearm.

(3) The purchaser or transferee presents an original receipt to the firearms dealer which shows the date of purchase, the name, and the model number of the safety device.

(4) The firearms dealer verifies that the requirements in (1) to (3), inclusive, have been satisfied.

(5) The firearms dealer maintains a copy of the receipt along with the dealers' record of sales of firearms.

SEC. 4. Section 12088.1 of the Penal Code, as added by Section 1 of Chapter 245 of the Statutes of 1999, is repealed.

SEC. 5. Section 12088.15 is added to the Penal Code, to read:

12088.15. (a) No person shall keep for commercial sale, offer, or expose for commercial sale, or commercially sell any firearms safety device that is not listed on the roster maintained pursuant to subdivision (d) of Section 12088, or that does not comply with the standards for firearms safety devices adopted pursuant to Section 12088.2.

(b) No person may distribute as part of an organized firearm safety program, with or without consideration, any firearm safety device that is not listed on the roster maintained pursuant to subdivision (d) of Section 12088 or does not comply with the standards for firearms safety devices adopted pursuant to Section 12088.2.

(c) No long-gun safe may be manufactured in this state for sale in this state that does not comply with the standards for gun safes adopted pursuant to Section 12088.2, unless the long-gun safe is labeled by the manufacturer consistent with the requirements of Section 12088.1.

(d) (1) Any person who keeps for commercial sale, offers, or exposes for commercial sale, or who commercially sells a long-gun safe that does not comply with the standards for gun safes adopted pursuant to Section 12088.2, and who knows or has reason to know, that the long-gun safe in question does not meet the standards for gun safes adopted pursuant to Section 12088.2, is in violation of this section, and is punishable as provided in subdivision (e), unless the long-gun safe is labeled pursuant to Section 12088.1.

(2) Any person who keeps for commercial sale, offers, or exposes for commercial sale, or who commercially sells a long-gun safe that does not comply with the standards for gun safes adopted pursuant to Section 12088.2, and who removes or causes to be removed from the long-gun safe, the label required pursuant to Section 12088.1, is in violation of this section, and is punishable as provided in subdivision (e).



(e) A violation of this section is punishable by a civil fine of up to five hundred dollars (\$500). A second violation of this section that occurs within five years of the date of a previous offense is punishable by a civil fine of up to one thousand dollars (\$1,000) and, if the violation is committed by a licensed firearms dealer, the dealer shall be ineligible to sell firearms in this state for 30 days. A third or subsequent violation that occurs within five years of two or more previous offenses is punishable by a civil fine of up to five thousand dollars (\$5,000) and, if the violation is committed by a licensed firearms dealer, the firearms dealer shall be permanently ineligible to sell firearms in this state.

(f) The Attorney General, a district attorney, or a city attorney may bring a civil action for a violation of the provisions of this section.

