

AMENDED IN ASSEMBLY APRIL 10, 2007

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 1218

Introduced by Assembly Member Duvall

February 23, 2007

An act to amend Section ~~12131~~ 12132 of the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

AB 1218, as amended, Duvall. Firearms.

Existing law requires the Department of Justice to compile, publish, and maintain a roster listing all of the handguns that have been tested by a certified testing laboratory, have been determined not to be unsafe handguns, and that may be sold in this state, as specified. *Existing law also provides that any person who offers or exposes for sale, gives, or lends any unsafe handgun shall be punished by imprisonment in a county jail not exceeding one year.*

This bill would ~~make a technical, nonsubstantive change to those provisions that these provisions shall not apply the sale, loan, or transfer of any pistol, revolver, or other firearm capable of being concealed upon the person that is defined as an "antique firearm," as specified. This bill would provide that this change is declaratory of existing law.~~

This bill would also provide that these provisions shall not apply to the sale, loan, or transfer of a pistol, revolver, or other firearm capable of being concealed upon the person to a dealer if specified conditions are met, or to the sale, loan, or transfer of a pistol, revolver, or other firearm capable of being concealed upon the person by a dealer who received that firearm under specified conditions if it is accompanied by a notification stating that it has not qualified for inclusion on the

roster of pistols, revolvers, and other firearms capable of being concealed upon the person that may be sold in this state that is compiled by the department, as specified.

Because this bill would change the definition of a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

1 SECTION 1. Section 12132 of the Penal Code is amended to
2 read:

3 12132. This chapter shall not apply to any of the following:

4 (a) The sale, loan, or transfer of any firearm pursuant to Section
5 12082 in order to comply with subdivision (d) of Section 12072.

6 (b) The sale, loan, or transfer of any firearm that is exempt from
7 the provisions of subdivision (d) of Section 12072 pursuant to any
8 applicable exemption contained in Section 12078, if the sale, loan,
9 or transfer complies with the requirements of that applicable
10 exemption to subdivision (d) of Section 12072.

11 (c) The sale, loan, or transfer of any firearm as described in
12 paragraph (3) of subdivision (b) of Section 12125.

13 (d) The delivery of a pistol, revolver, or other firearm capable
14 of being concealed upon the person to a person licensed pursuant
15 to Section 12071 for the purposes of the service or repair of that
16 firearm.

17 (e) The return of a pistol, revolver, or other firearm capable of
18 being concealed upon the person by a person licensed pursuant to
19 Section 12071 to its owner where that firearm was initially
20 delivered in the circumstance set forth in subdivision (a), (d), (f),
21 or (j).

22 (f) ~~The return~~ delivery of a pistol, revolver, or other firearm
23 capable of being concealed upon the person by a person licensed
24 pursuant to Section 12071 ~~to~~ by its owner where that firearm ~~was~~

1 initially is delivered to that licensee for the purpose of a
2 consignment sale or as collateral for a pawnbroker loan.

3 (g) The sale, loan, or transfer of any pistol, revolver, or other
4 firearm capable of being concealed upon the person listed as a
5 curio or relic, as defined in Section 178.11 of the Code of Federal
6 Regulations or is defined as an “antique firearm” in Section
7 921(a)(16) of Title 18 of the United States Code.

8 (h) (1) The Legislature finds a significant public purpose in
9 exempting pistols that are designed expressly for use in Olympic
10 target shooting events. Therefore, those pistols that are sanctioned
11 by the International Olympic Committee and by USA Shooting,
12 the national governing body for international shooting competition
13 in the United States, and that are used for Olympic target shooting
14 purposes at the time that the act adding this subdivision is enacted,
15 and that fall within the definition of “unsafe handgun” pursuant
16 to paragraph (3) of subdivision (b) of Section 12126 shall be
17 exempt, as provided in paragraphs (2) and (3).

18 (2) This chapter shall not apply to any of the following pistols,
19 because they are consistent with the significant public purpose
20 expressed in paragraph (1):

21	MANUFACTURER	MODEL	CALIBER
22	ANSCHUTZ	FP	.22LR
23	BENELLI	MP90	.22LR
24	BENELLI	MP90	.32 S&W LONG
25	BENELLI	MP95	.22LR
26	BENELLI	MP95	.32 S&W LONG
27	DRULOV	FP	.22LR
28	GREEN	ELECTROARM	.22LR
29	HAMMERLI	100	.22LR
30	HAMMERLI	101	.22LR
31	HAMMERLI	102	.22LR
32	HAMMERLI	162	.22LR
33	HAMMERLI	280	.22LR
34	HAMMERLI	280	.32 S&W LONG
35	HAMMERLI	FP10	.22LR
36	HAMMERLI	MP33	.22LR
37	HAMMERLI	SP20	.22LR
38	HAMMERLI	SP20	.32 S&W LONG
39	MORINI	CM102E	.22LR
40			

1	MORINI	22M	.22LR
2	MORINI	32M	.32 S&W LONG
3	MORINI	CM80	.22LR
4	PARDINI	GP	.22 SHORT
5	PARDINI	GPO	.22 SHORT
6	PARDINI	GP-SCHUMANN	.22 SHORT
7	PARDINI	HP	.32 S&W LONG
8	PARDINI	K22	.22LR
9	PARDINI	MP	.32 S&W LONG
10	PARDINI	PGP75	.22LR
11	PARDINI	SP	.22LR
12	PARDINI	SPE	.22LR
13	SAKO	FINMASTER	.22LR
14	STEYR	FP	.22LR
15	VOSTOK	IZH NO. 1	.22LR
16	VOSTOK	MU55	.22LR
17	VOSTOK	TOZ35	.22LR
18	WALTHER	FP	.22LR
19	WALTHER	GSP	.22LR
20	WALTHER	GSP	.32 S&W LONG
21	WALTHER	OSP	.22 SHORT
22	WALTHER	OSP-2000	.22 SHORT

23

24 (3) The department shall create a program that is consistent with
 25 the purpose stated in paragraph (1) to exempt new models of
 26 competitive firearms from this chapter. The exempt competitive
 27 firearms may be based on recommendations by USA Shooting
 28 consistent with the regulations contained in the USA Shooting
 29 Official Rules or may be based on the recommendation or rules
 30 of any other organization that the department deems relevant.

31 (i) The sale, loan, or transfer of any semiautomatic pistol that
 32 is to be used solely as a prop during the course of a motion picture,
 33 television, or video production by an authorized participant therein
 34 in the course of making that production or event or by an authorized
 35 employee or agent of the entity producing that production or event.

36 (j) *The sale, loan, or transfer of a pistol, revolver, or other*
 37 *firearm capable of being concealed upon the person to a dealer*
 38 *if all of the following conditions are met:*

39 (1) *The person selling, loaning, or transferring that firearm is*
 40 *not a person who is licensed pursuant to Chapter 44 (commencing*

1 with Section 921) of Title 18 of the United States Code and the
2 regulations issued pursuant thereto.

3 (2) The pistol, revolver, or other firearm capable of being
4 concealed upon the person was manufactured prior to January 1,
5 1995.

6 (3) The make or model of the pistol, revolver, or other firearm
7 capable of being concealed upon the person was never submitted
8 for testing pursuant to this chapter.

9 (4) The manufacturer of the firearm discontinued manufacture
10 of that make or model of firearm prior to January 1, 1995.

11 (5) The pistol, revolver, or other firearm capable of being
12 concealed upon the person was lawfully possessed by a California
13 resident prior to January 1, 1995.

14 (k) The sale, loan, or transfer of a pistol, revolver, or other
15 firearm capable of being concealed upon the person by a dealer
16 who received that firearm pursuant to subdivision (j), if that
17 firearm has with it a notification in a form prescribed by the
18 Department of Justice stating "This firearm has not qualified for
19 inclusion on the roster of pistols, revolvers, and other firearms
20 capable of being concealed upon the person that may be sold in
21 this state compiled by the Department of Justice pursuant to
22 paragraph (1) of subdivision (b) of Section 12125 of the Penal
23 Code," because it was not submitted for testing pursuant to this
24 chapter and is therefore not on the roster set forth in Section
25 12131.

26 SEC. 2. The amendment made to subdivision (g) of Section
27 12132 of the Penal Code by this act are declaratory of existing
28 law.

29 SEC. 3. No reimbursement is required by this act pursuant to
30 Section 6 of Article XIII B of the California Constitution because
31 the only costs that may be incurred by a local agency or school
32 district will be incurred because this act creates a new crime or
33 infraction, eliminates a crime or infraction, or changes the penalty
34 for a crime or infraction, within the meaning of Section 17556 of
35 the Government Code, or changes the definition of a crime within
36 the meaning of Section 6 of Article XIII B of the California
37 Constitution.

38 SECTION 1. ~~Section 12131 of the Penal Code is amended to~~
39 ~~read:~~

1 12131. ~~(a) On and after January 1, 2001, the Department of~~
2 ~~Justice shall compile, publish, and thereafter maintain a roster~~
3 ~~listing all of the pistols, revolvers, and other firearms capable of~~
4 ~~being concealed upon the person that have been tested by a certified~~
5 ~~testing laboratory, have been determined not to be unsafe handguns,~~
6 ~~and may be sold in this state pursuant to this title. The roster shall~~
7 ~~list, for each firearm, the manufacturer, model number, and model~~
8 ~~name.~~

9 ~~(b) (1) The department may charge any person in this state who~~
10 ~~is licensed as a manufacturer of firearms pursuant to Chapter 44~~
11 ~~(commencing with Section 921) of Title 18 of the United States~~
12 ~~Code, and any person in this state who manufactures or causes to~~
13 ~~be manufactured, imports into the state for sale, keeps for sale, or~~
14 ~~offers or exposes for sale any pistol, revolver, or other firearm~~
15 ~~capable of being concealed upon the person in this state, an annual~~
16 ~~fee not exceeding the costs of preparing, publishing, and~~
17 ~~maintaining the roster pursuant to subdivision (a) and the costs of~~
18 ~~research and development, report analysis, firearms storage, and~~
19 ~~other program infrastructure costs necessary to implement this~~
20 ~~chapter.~~

21 ~~(2) Any pistol, revolver, or other firearm capable of being~~
22 ~~concealed upon the person that is manufactured by a manufacturer~~
23 ~~who manufactures or causes to be manufactured, imports into the~~
24 ~~state for sale, keeps for sale, or offers or exposes for sale any pistol,~~
25 ~~revolver, or other firearm capable of being concealed upon the~~
26 ~~person in this state, and who fails to pay any fee required pursuant~~
27 ~~to paragraph (1), may be excluded from the roster.~~

28 ~~(3) If a purchaser has initiated a transfer of a handgun that is~~
29 ~~listed on the roster as not unsafe, and prior to the completion of~~
30 ~~the transfer, the handgun is removed from the roster of not unsafe~~
31 ~~handguns because of failure to pay the fee required to keep that~~
32 ~~handgun listed on the roster, the handgun shall be deliverable to~~
33 ~~the purchaser if the purchaser is not otherwise prohibited from~~
34 ~~purchasing or possessing the handgun. However, if a purchaser~~
35 ~~has initiated a transfer of a handgun that is listed on the roster as~~
36 ~~not unsafe, and prior to the completion of the transfer, the handgun~~
37 ~~is removed from the roster pursuant to subdivision (f), the handgun~~
38 ~~shall not be deliverable to the purchaser.~~

- 1 ~~(e) The Attorney General may annually retest up to 5 percent~~
2 ~~of the handgun models that are listed on the roster described in~~
3 ~~subdivision (a):~~
- 4 ~~(d) The retesting of a handgun model pursuant to subdivision~~
5 ~~(e) shall conform to the following:~~
- 6 ~~(1) The Attorney General shall obtain from retail or wholesale~~
7 ~~sources, or both, three samples of the handgun model to be retested.~~
- 8 ~~(2) The Attorney General shall select the certified laboratory to~~
9 ~~be used for the retesting.~~
- 10 ~~(3) The ammunition used for the retesting shall be of a type~~
11 ~~recommended by the manufacturer in the user manual for the~~
12 ~~handgun. If the user manual for the handgun model makes no~~
13 ~~ammunition recommendation, the Attorney General shall select~~
14 ~~the ammunition to be used for the retesting. The ammunition shall~~
15 ~~be of the proper caliber for the handgun, commercially available,~~
16 ~~and in new condition.~~
- 17 ~~(e) The retest shall be conducted in the same manner as the~~
18 ~~testing prescribed in Sections 12127 and 12128.~~
- 19 ~~(f) If the handgun model fails retesting, the Attorney General~~
20 ~~shall remove the handgun model from the roster maintained~~
21 ~~pursuant to subdivision (a):~~
- 22 ~~(g) A handgun model removed from the roster pursuant to~~
23 ~~subdivision (f) may be reinstated on the roster if all of the following~~
24 ~~are met:~~
- 25 ~~(1) The manufacturer petitions the Attorney General for~~
26 ~~reinstatement of the handgun model:~~
- 27 ~~(2) The manufacturer pays the Department of Justice for all of~~
28 ~~the costs related to the reinstatement testing of the handgun model,~~
29 ~~including the purchase price of the handguns, prior to reinstatement~~
30 ~~testing.~~
- 31 ~~(3) The reinstatement testing of the handguns shall be in~~
32 ~~accordance with subdivisions (d) and (e):~~
- 33 ~~(4) The three handgun samples shall be tested only once for~~
34 ~~reinstatement. If the sample fails it may not be retested.~~
- 35 ~~(5) If the handgun model successfully passes testing for~~
36 ~~reinstatement, and if the manufacturer of the handgun is otherwise~~
37 ~~in compliance with this chapter, the Attorney General shall reinstate~~
38 ~~the handgun model on the roster maintained pursuant to subdivision~~
39 ~~(a):~~

- 1 ~~(6) The manufacturer shall provide the Attorney General with~~
- 2 ~~the complete testing history for the handgun model.~~
- 3 ~~(7) Notwithstanding subdivision (c), the Attorney General may,~~
- 4 ~~at any time, further retest any handgun model that has been~~
- 5 ~~reinstated to the roster.~~

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