

ASSEMBLY BILL

No. 1559

Introduced by Assembly Member Portantino

January 30, 2012

An act to amend Sections 27966, 28450, and 33300 of, to add Sections 25617, 26390, 26537, 26595, 27138, 27755, 27823, 27827, 27963, and 31845 to, to repeal Section 27965 of, and to repeal and add Section 27820 of, the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

AB 1559, as introduced, Portantino. Firearms.

(1) Existing law generally prohibits a person from carrying a handgun concealed upon his or her person or concealed within any vehicle under his or her control. Existing law exempts from this prohibition persons who are licensed and engaged in the business of manufacturing, importing, wholesaling, repairing, or dealing in firearms and their authorized agents.

Existing law also prohibits a person from selling, leasing, or transferring firearms unless the person has a valid federal firearms license, has a regulatory or business license, and has a valid seller's permit, among other requirements, as specified. This prohibition does not apply to sales, deliveries, or transfers of firearms between or to federally licensed manufacturers of firearms.

Existing law prohibits a dealer from delivering a firearm to a person within 10 days of the application to purchase, and requires the transferee to present a basic firearms safety certificate to the dealer. Existing law also prohibits the dealer from delivering the firearm whenever the dealer is notified by the Department of Justice that the purchaser has made another application to purchase a handgun within the preceding 30-day

period. Existing law provides that these prohibitions do not apply to transfers of firearms between or to federally licensed importers and manufacturers of firearms.

Existing law makes it a misdemeanor to purchase or receive any handgun, or to sell, deliver, loan, or transfer any handgun, except an antique firearm, without a valid handgun safety certificate, except as specified, and generally requires a license to sell, lease, or transfer a firearm, including a handgun. Existing law provides that these prohibitions and requirements do not apply to transfers of firearms between or to federally licensed importers and manufacturers of firearms.

This bill would additionally exempt persons who are licensed and engaged in the business of manufacturing ammunition from the above-mentioned prohibitions and requirements.

(2) Existing law generally prohibits a person from openly carrying an unloaded handgun upon his or her person or inside or on a vehicle in several specified areas, including a public place or public street in an incorporated city or city and county.

This bill would exempt from this prohibition the open carrying of an unloaded handgun as merchandise by a person who is engaged in the business of manufacturing ammunition.

(3) Existing law prohibits a licensed dealer from transferring a firearm to a person in California who is similarly licensed unless the person intending to transfer the firearm obtains a verification number from the Department of Justice via the Internet. Existing law provides that this requirement does not apply if the transfer is infrequent, the firearm is not a handgun, and the firearm is a curio or relic manufactured at least 50 years prior to the current date, but is not a replica, as defined.

This bill would instead provide that the requirement to obtain a verification number does not apply to a transfer of a firearm where the delivery of the firearm is by a person who has a federal firearms license, has a regulatory or business license, has a valid seller's permit issued by the State Board of Equalization, and has a certificate of eligibility issued by the Department of Justice, among other requirements.

The bill would provide that the verification number requirement would not apply to the delivery of a firearm to a person licensed under federal law as a manufacturer of ammunition if the person is not otherwise licensed as a manufacturer, importer, or dealer of firearms or a collector pursuant to federal law and the firearm is to be used in the course and scope of the person's activities as a federally licensed ammunition

manufacturer. The bill would also provide that the verification number requirement does not apply to the transfer of a firearm that is not a handgun and which is a curio or relic if the transfer complies with specified provisions of law, including that the person receiving the firearm has a current certificate of eligibility indicating that he or she is not prohibited by state or federal law from possessing firearms.

(4) Existing law requires parties to a transaction to transfer a firearm to complete the transaction through a licensed firearms dealer if neither party to the transaction holds a dealer's license. Existing law provides, until January 1, 2014, that the requirement to complete the transaction through a licensed firearms dealer does not apply if the transfer is infrequent, the firearm is not a handgun, and the firearm is a curio or relic manufactured at least 50 years prior to the current date, but is not a replica.

This bill would instead provide that, until January 1, 2014, the requirement to complete the transfer through a licensed firearms dealer does not apply to the transfer of a firearm if the transfer is infrequent, the firearm is not a handgun, the firearm is a curio or relic, the person receiving the firearm has a current certificate of eligibility, and the person receiving the firearm is licensed as a collector. The bill would provide that the requirement to complete the transfer through a licensed firearm dealer does not apply to a transfer of firearms between or to manufacturers of ammunition licensed under federal law where the firearms are to be used in the course or scope of the licensee's activities pursuant to the license.

(5) Existing law requires the Department of Justice to keep a centralized list of persons who identify themselves as being licensed under applicable federal law as a dealer, importer, or manufacturer of firearms whose licensed premises are within this state and who declare exemption from specified state licensing requirements.

This bill would additionally require the Department of Justice to include collectors of firearms, and dealers, importers, or manufacturers of ammunition on its centralized list who are likewise federally licensed and likewise claim the exemption from the specified state licensing requirements.

(6) Existing law authorizes the Department of Justice to issue a permit for the manufacture, possession, transportation, or sale of short-barreled rifles or short-barreled shotguns upon a showing that good cause, as specified, exists for the issuance of a permit to the applicant and the

Department of Justice finds that the issuance of the permit does not endanger public safety.

This bill would add the importation of short-barreled rifles or short-barreled shotguns to the activities for which a permit may be issued pursuant to the above provision.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

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

1 SECTION 1. Section 25617 is added to the Penal Code, to
2 read:

3 25617. Section 25400 does not apply to, or affect, the
4 possession or transportation of unloaded pistols, revolvers, or other
5 firearms capable of being concealed upon the person as
6 merchandise by a person who is engaged in the business of
7 manufacturing ammunition and who is licensed to engage in that
8 business, or the authorized representative or authorized agent of
9 that person, while engaged in the lawful course of business.

10 SEC. 2. Section 26390 is added to the Penal Code, to read:

11 26390. Section 26350 does not apply to, or affect, the open
12 carrying of an unloaded handgun as merchandise by a person who
13 is engaged in the business of manufacturing ammunition and who
14 is licensed to engage in that business, or the authorized
15 representative or authorized agent of that person, while engaged
16 in the lawful course of the business.

17 SEC. 3. Section 26537 is added to the Penal Code, to read:

18 26537. Section 26500 does not apply to the sale, delivery, or
19 transfer of firearms that satisfies both of the following conditions:

20 (a) The sale, delivery, or transfer is made by a manufacturer of
21 ammunition licensed pursuant to Chapter 44 (commencing with
22 Section 921) of Title 18 of the United States Code and the
23 regulations issued pursuant thereto.

24 (b) The sale, delivery, or transfer is made to a dealer or
25 wholesaler.

26 SEC. 4. Section 26595 is added to the Penal Code, to read:

27 26595. Section 26500 does not apply to the sale, delivery, or
28 transfer of firearms between or to manufacturers of ammunition
29 licensed to engage in that business pursuant to Chapter 44
30 (commencing with Section 921) of Title 18 of the United States

1 Code and the regulations issued pursuant thereto, where those
2 firearms are to be used in the course and scope of the licensee's
3 activities as a person licensed pursuant to Chapter 44 (commencing
4 with Section 921) of Title 18 of the United States Code and the
5 regulations issued pursuant thereto.

6 SEC. 5. Section 27138 is added to the Penal Code, to read:

7 27138. Article 1 (commencing with Section 26700) and Article
8 2 (commencing with Section 26800) do not apply to the sale,
9 delivery, or transfer of firearms between or to manufacturers of
10 ammunition licensed to engage in that business pursuant to Chapter
11 44 (commencing with Section 921) of Title 18 of the United States
12 Code and the regulations issued pursuant thereto.

13 SEC. 6. Section 27755 is added to the Penal Code, to read:

14 27755. Section 27540 does not apply to the sale, delivery, or
15 transfer of firearms to manufacturers of ammunition licensed to
16 engage in that business pursuant to Chapter 44 (commencing with
17 Section 921) of Title 18 of the United States Code and the
18 regulations issued pursuant thereto.

19 SEC. 7. Section 27820 of the Penal Code is repealed.

20 ~~27820. If all of the following requirements are satisfied, Section~~
21 ~~27555 does not apply to the sale, loan, or transfer of a firearm:~~

22 ~~(a) The sale, loan, or transfer is infrequent, as defined in Section~~
23 ~~16730.~~

24 ~~(b) The firearm is not a handgun.~~

25 ~~(c) The firearm is a curio or relic manufactured at least 50 years~~
26 ~~prior to the current date but is not a replica, as defined in Section~~
27 ~~478.11 of Title 27 of the Code of Federal Regulations, or its~~
28 ~~successor.~~

29 SEC. 8. Section 27820 is added to the Penal Code, to read:

30 27820. Section 27555 does not apply to the sale, loan, or
31 transfer of a firearm where the delivery of that firearm is by a
32 person licensed pursuant to Sections 26700 to 26915, inclusive,
33 who delivered that firearm following the procedures set forth in
34 Section 27540 and Sections 26700 to 26915, inclusive, to a person
35 who is licensed as a collector pursuant to Chapter 44 (commencing
36 with Section 921) of Title 18 of the United States Code and
37 regulations issued thereto.

38 SEC. 9. Section 27823 is added to the Penal Code, to read:

1 27823. Section 27555 does not apply to the sale, loan, or
2 transfer of a firearm that is not a handgun which is a curio or relic
3 if the transfer complies with the provisions of Section 27966.

4 SEC. 10. Section 27827 is added to the Penal Code, to read:

5 27827. Section 27555 does not apply to the delivery of a
6 firearm to a person licensed pursuant to Chapter 44 (commencing
7 with Section 921) of Title 18 of the United States Code as a
8 manufacturer of ammunition if both of the following conditions
9 apply:

10 (a) The person is not otherwise licensed as a manufacturer,
11 importer, or dealer of firearms or as a collector pursuant to Chapter
12 44 (commencing with Section 921) of Title 18 of the United States
13 Code.

14 (b) The firearm is to be used in the course and scope of that
15 person’s activities as a licensed ammunition manufacturer pursuant
16 to Chapter 44 (commencing with Section 921) of Title 18 of the
17 United States Code.

18 SEC. 11. Section 27963 is added to the Penal Code, to read:

19 27963. Section 27545 does not apply to the sale, delivery, or
20 transfer of firearms between or to manufacturers of ammunition
21 licensed to engage in that business pursuant to Chapter 44
22 (commencing with Section 921) of Title 18 of the United States
23 Code and the regulations issued pursuant thereto where those
24 firearms are to be used in the course and scope of the licensee’s
25 activities as a person licensed pursuant to Chapter 44 (commencing
26 with Section 921) of Title 18 of the United States Code and the
27 regulations issued pursuant thereto.

28 SEC. 12. Section 27965 of the Penal Code is repealed.

29 ~~27965. (a) If all of the following requirements are satisfied,
30 Section 27545 does not apply to the sale, loan, or transfer of a
31 firearm:~~

32 ~~(1) The sale, loan, or transfer is infrequent, as defined in Section
33 16730.~~

34 ~~(2) The firearm is not a handgun.~~

35 ~~(3) The firearm is a curio or relic manufactured at least 50 years
36 prior to the current date but is not a replica, as defined in Section
37 478.11 of Title 27 of the Code of Federal Regulations, or its
38 successor.~~

1 ~~(b) This section shall remain in effect only until January 1, 2014,~~
2 ~~and as of that date is repealed, unless a later enacted statute, that~~
3 ~~is enacted before January 1, 2014, deletes or extends that date.~~

4 SEC. 13. Section 27966 of the Penal Code is amended to read:

5 ~~27966. Commencing~~

6 27966. (a) *Until January 1, 2014, if all of the following*
7 *requirements are satisfied , Section 27545 shall not apply to the*
8 *sale, loan, or transfer of a firearm:*

9 (1) *The sale, loan, or transfer is infrequent, as defined in Section*
10 *16730.*

11 (2) *The firearm is not a handgun.*

12 (3) *The firearm is a curio or relic, as defined in Section 478.11*
13 *of Title 27 of the Code of Federal Regulations, or its successor.*

14 (4) *The person receiving the firearm has a current certificate*
15 *of eligibility issued pursuant to Section 26710.*

16 (5) *The person receiving the firearm is licensed as a collector*
17 *pursuant to Chapter 44 (commencing with Section 921) of Title*
18 *18 of the United States Code and the regulations issued thereto.*

19 (b) *Commencing January 1, 2014, if all of the following*
20 *requirements are satisfied, Section 27545 shall not apply to the*
21 *sale, loan, or transfer of a firearm:*

22 ~~(a)~~

23 (1) *The sale, loan, or transfer is infrequent, as defined in Section*
24 *16730.*

25 ~~(b)~~

26 (2) *The firearm is not a handgun.*

27 ~~(c)~~

28 (3) *The firearm is a curio or relic, as defined in Section 478.11*
29 *of Title 27 of the Code of Federal Regulations, or its successor.*

30 ~~(d)~~

31 (4) *The person receiving the firearm has a current certificate of*
32 *eligibility issued pursuant to Section 26710.*

33 ~~(e)~~

34 (5) *The person receiving the firearm is licensed as a collector*
35 *pursuant to Chapter 44 (commencing with Section 921) of Title 18*
36 *of the United States Code and the regulations issued thereto.*

37 ~~(f)~~

38 (6) *Within 30 days of taking possession of the firearm, the*
39 *person to whom it is transferred shall forward by prepaid mail, or*
40 *deliver in person to the Department of Justice, a report that includes*

1 information concerning the individual taking possession of the
2 firearm, how title was obtained and from whom, and a description
3 of the firearm in question. The report forms that individuals
4 complete pursuant to this section shall be provided to them by the
5 department.

6 SEC. 14. Section 28450 of the Penal Code is amended to read:

7 28450. (a) Commencing January 1, 2008, the Department of
8 Justice shall keep a centralized list of persons who identify
9 themselves as being licensed pursuant to Chapter 44 (commencing
10 with Section 921) of Title 18 of the United States Code as a dealer,
11 *collector*, importer, or manufacturer of firearms *or ammunition*
12 whose licensed premises are within this state and who declare to
13 the department an exemption from the firearms dealer licensing
14 requirements of Section 26500.

15 (b) The list shall be known as the centralized list of exempted
16 federal firearms licensees.

17 (c) To qualify for placement on the centralized list, an applicant
18 shall do all of the following:

19 (1) Possess a valid federal firearms license pursuant to Chapter
20 44 (commencing with Section 921) of Title 18 of the United States
21 Code as a dealer, importer, or manufacturer of firearms.

22 (2) Possess a current, valid certificate of eligibility pursuant to
23 Section 26710.

24 (3) Maintain with the department a signed declaration
25 enumerating the applicant's statutory exemptions from licensing
26 requirements of Section 26500.

27 SEC. 15. Section 31845 is added to the Penal Code, to read:

28 31845. Subdivision (a) of Section 31615 shall not apply to the
29 sale, delivery, or transfer of a handgun to a manufacturer of
30 ammunition licensed to engage in that business pursuant to Chapter
31 44 (commencing with Section 921) of Title 18 of the United States
32 Code and the regulations issued pursuant thereto where those
33 firearms are to be used in the course and scope of the licensee's
34 activities as a person licensed pursuant to Chapter 44 (commencing
35 with Section 921) of Title 18 of the United States Code and the
36 regulations issued pursuant thereto.

37 SEC. 16. Section 33300 of the Penal Code is amended to read:

38 33300. (a) Upon a showing that good cause exists for issuance
39 of a permit to the applicant, and if the Department of Justice finds
40 that issuance of the permit does not endanger the public safety,

1 the department may issue a permit for the manufacture, possession,
2 *importation*, transportation, or sale of short-barreled rifles or
3 short-barreled shotguns. The permit shall be initially valid for a
4 period of one year, and renewable annually thereafter. No permit
5 shall be issued to a person who is under 18 years of age.

6 (b) Good cause, for the purposes of this section, shall be limited
7 to only the following:

8 (1) The permit is sought for the manufacture, possession,
9 *importation*, or use with blank cartridges, of a short-barreled rifle
10 or short-barreled shotgun, solely as a prop for a motion picture,
11 television, or video production or entertainment event.

12 (2) The permit is sought for the manufacture of, exposing for
13 sale, keeping for sale, sale of, importation or lending of
14 short-barreled rifles or short-barreled shotguns to the entities listed
15 in Section 33220 by persons who are licensed as dealers or
16 manufacturers under the provisions of Chapter 53 (commencing
17 with Section 5801) of Title 26 of the United States Code, as
18 amended, and the regulations issued pursuant thereto.